

# ***STAFFORD COUNTY PLANNING COMMISSION MINUTES***

## ***May 18, 2011***

The meeting of the Stafford County Planning Commission of Wednesday, May 18, 2011, was called to order at 6:31 p.m. by Chairman Gordon Howard in the Board of Supervisors Chambers of the County Administrative Center.

MEMBERS PRESENT: Howard, Rhodes, Fields, Hazard, Mitchell, Kirkman and Hiron

MEMBERS ABSENT: None

STAFF PRESENT: Harvey, Smith, Stinnette, Zuraf, Bullington, Hudson, Lott and Hornung

### DECLARATIONS OF DISQUALIFICATION

Mr. Howard: Are there any declarations of disqualification from any members of any item on the agenda this evening? Hearing none is there a motion to approve this evening's agenda?

Mr. Rhodes: So moved.

Mr. Mitchell: Second.

Mr. Howard: Okay, second by Mr. Mitchell; any discussion? Hearing none I will call for the vote on this evening's agenda. All those in favor of adopting this evening's agenda signify by saying aye.

Mr. Fields: Aye.

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hiron: Aye.

Mr. Howard: Aye. Opposed nay? The motion carries 7-0. That moves us into unfinished business which is item number 1 which is the Wetland Mitigation Bank.

### UNFINISHED BUSINESS

1. Wetland Mitigation Bank (**Time Limit: July 4, 2011**) (**Deferred at April 20, 2011 Meeting to May 4, 2011 Meeting**) (**Deferred at May 4, 2011 Meeting to May 18, 2011 Meeting**) (*Authorize for Public Hearing by: May 18, 2011*) (*Potential Public Hearing Date: June 15, 2011*)

Mr. Harvey: Mr. Chairman, Mr. Lott from our staff will give the Commission a briefing as where we are to date and also we have Ms. Regina Bronson from the U. S. Army Corps of Engineers to answer questions the Commission may have.

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Mr. Howard: Great, thank you.

Mr. Lott: Good evening Mr. Chair, members of the Planning Commission. My name is Mike Lott and I am an Environmental Planner with Planning and Zoning. At the request of the Planning Commission at the last meeting there was some concern about the way the mitigation bank definition had been worded and I tried to clarify a little bit of that in the memo. The concern seemed to be primarily about the word preservation in the mitigation bank, in the definition.

Mr. Howard: Right.

Mr. Lott: I was trying to get in the memo was that a portion of the bank can include preservation but the majority of the bank has to be restoration, creation or enhancement but a portion of the bank can include preservation. Depending on the type of bank, like a stream bank can be up to 50% preservation I believe, or the wetland bank would allow 20%. We have Regina Bronson here as well so we could maybe get into this a little bit more if you would like. From watching, of course she wasn't here when you guys discussed it, but there was also some concern about... it seemed to be that this ordinance might promote wetland degradation and people would go out, raid existing wetlands so they can then turn around and somehow maybe create these as a bank.

Mr. Howard: Or reward someone for the last several years that had not done the right thing with the land.

Mr. Lott: Yeah, I was trying to explain in the memo. I don't think that is something generally, again that is something... Regina can get into this, but I don't think the Army Corps would look unfavorably, you know, at land that has been degraded over the last few years and not treated well as a possible banking site. One, I think generally speaking, it is usually firms that are involved like the ones here in Stafford County. Firms that are specialized in mitigation banks, who seek property to do them, like an owner of a large farm and talk to them about possibly creating a bank there. I don't think your average property owner is even aware of the process to do it. I think the upfront cost associated with creating a bank, I think, would put off people, basically degrading or not taking care of their land and then thinking they can come back later and profit from it as a mitigation bank I think is the cost associated with even doing that, I think, would discourage people from doing something like that.

Mr. Howard: Okay.

Mr. Lott: I have Ms. Regina Bronson here with the Corps.

Mr. Howard: Before you bring her up, let me see if there are questions of you from any of the Commissioners here. Does anyone have any questions for staff regarding the wetland mitigation bank? Seeing no one signaling we can bring Ms. Bronson, was it?

Mr. Lott: One thing I did change in the ordinance, just with the definition because I thought there may be confusion in the future. I added the word stream; a wetland bank is a wetland or stream area that has been restored, etcetera, because I did not have the word stream in there before and banks that include both wetland and stream areas. So I wanted to clarify that in the definitions so that in the future there wouldn't be concern if someone came in with strictly a stream bank that maybe they would consider was allowed under this ordinance so I wanted to clarify that.

Mr. Howard: Okay, thank you.

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Regina Bronson: Good evening, I am Regina Bronson with the Corps of Engineers for the Norfolk District and my office is here in Fredericksburg. Stafford County is one of my counties where I regulate wetland and stream impacts and writing permits for them.

Mr. Howard: Well, we appreciate you coming down this evening and helping us understand how a wetland mitigation bank would function in particular from your perspective, how you administer that or how you would evaluate, I guess, the evaluation process was a pretty critical element of our questioning amongst ourselves at the last meeting. As well as, the concern, would we be rewarding someone who did not do the right thing with their property over a period of time who could all of a sudden gain some value by having this new zone, zoning ordinance, which would be this wetland mitigation bank.

Ms. Bronson: It's definitely an over use. When they call on the phone, sometimes they will even pass the phone call as to whether they have a viable property for a bank. Especially if they are going to degrade it even before they start building the bank, like cut down a forested area to create wetlands or enhance anything, we don't even take it. Even if they have gone out and selected timbered an area, we will ask them to wait five years and come back we will re-evaluate, the process will stop right there. If they don't have an area... if it is 100% preservation, we don't take that either. There has to be some component of restoration and enhancement to the streams and to the wetlands, 50/50 usually. There can't be 80% of preservation and then 20% of creation, it just doesn't, it's not... it's just not good business. We do like to... we do see a lot of farms that come in, they are usually that the families don't want to have a developer come in and they want to take part of their property... you have one here that is in the process of being turned into a bank on Poplar Road in Stafford County. The gentleman is a farmer and he is taking his cattle out, he is an older gentleman and I guess he is getting to where it is harder for him to farm, so his children have come together and have of the bank is Potomac Run so the cattle have pretty much destroyed the streams. So we look at it, not only I but DEQ, the state, Fish and Wildlife, EPA, DGIF, DOF, which is Department of Forestry, Department of Game and Inland Fisheries, all those agencies gather and we look at the site, we even take a site visit out before we say yes you can go forward with it. There is no sense in them putting any money or effort into a prospectus to public notice and let the public know and get all riled about it if it is not going to work. So it is scrutinized highly before it even gets to the steps of approved.

Mr. Howard: Okay, let me bring it back to the Commission and see if there are any additional questions. Mrs. Hazard?

Mrs. Hazard: Having looked at some of these, I guess this mitigation banking instrument and like you said you read of the litany of all the people who sign it; is the County at all involved in that? I mean it seemed like it was much more of a federal one but is there some involvement on the County side in that either that creation instrument or is there any over site that the County is required or needs to have? I guess I just don't understand the County's role.

Ms. Bronson: Well, when it is public noticed, we definitely can send it to you and you can request me to send you a copy of it. You could be a contact for the County and I would be happy to send you the prospectus, the plan and everything so if you have a problem with that parcel, I mean, we would like to know because we do not want something that has not a clear title or some injunctions on it because you are putting mitigation out to sell for credits. There is money involved, so if we come back to the banker and it fails, you know, there is financial assurances and escrow account and everything. We don't want somebody coming back on the property saying oh wait, there is a lien or a judgment on it. So it has to be a clear title, so if there is something the County had put on it or has been proposed and

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there is a problem with it, we would like to know. So we can definitely include you in the public notice process, I know Hampstead is already gone to public notice. I can still email you some information if you wanted and I can get it from Mike.

Mrs. Hazard: I guess I was just trying to go to the process of how much the County is involved or the notice. I was really just trying to understand the process, so right now it is mostly a federal and not really a county.

Ms. Bronson: Federal and State, usually DEQ, Department for Environmental Quality and the Corps has to sign off on it. We don't need signatures from the Fish and Wildlife or anything; of course if they have a big problem with the areas and mitigation banks, we are not going to approve it until we work out the details. If it can't be worked out then we would just say I'm sorry it is not a viable bank. Usually it just takes two signatures for the bank.

Mr. Howard: Mr. Fields?

Mr. Fields: Yes Ms. Bronson, can you maybe give us a brief example of what you would consider a successful wetland mitigation bank? Someone that has does this, how it has worked and how successful it has been?

Ms. Bronson: Well we look at the property, the land use of today, the land use future and then what is surrounding it. So we ask the applicant to give us a plan of the County land use if there a future commercial development on one side of it then that is probably not going to be good to have a bank in the middle of that because you are going to have to have runoff and different things that is going to degrade that stream from upstream once they start building and sediment and erosion and everything. Then we look at the connectivity, is there streams and wetlands? How is it degraded? What has degraded it? Is it going to be successful? So usually they will have monitoring miles out there if they are going to create wetlands and if they don't get the groundwater sufficient or there is not enough sufficient groundwater for the creation of wetlands to re-establish then it's not going to be a good bank. So we look at a lot of parameters, especially the land use and what is around it. That is probably the main thing is what is around it for it to be a good bank. I have had some people call that have HOA's and they have some land in the middle of a neighborhood and they want to turn that into a mitigation bank, well that is not feasible. You can't have trails... walking trails or anything and you can't put anything, it is pretty much a preserved area and it is going to be preserved in perpetuity a natural area.

Mr. Fields: Has this been successful... do you know examples where this has been financially successful for the people doing this because this is not... this is different and it takes me a while to get my head around. This is not direct mitigation where you're taking... you're destroying one site and mitigating that one site specifically, this is actually speculative mitigation, right? This is creating a wetland so that at some future date someone may purchase mitigation credits from it, correct?

Ms. Bronson: Yes.

Mr. Fields: And has this been financially successful for people doing this or is it too early to tell yet?

Ms. Bronson: No, we have on our website... I guess I should have brought our website, we have 100 banks or more on there from different counties, all over the... Well of course we have them all over the United States but we have probably 100 in Virginia that have successfully, some of them have sold out of all their credits and have been after 10 years turned over to a stewardship. So if the landowner is

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going to maintain the stewardship of the land and preserve it and keep out the invasive species and so forth, it's preserved in perpetuity with a deed restriction so there is not going to be any building or anything around it or within the mitigation area.

Mr. Fields: So this is a mechanism... once it goes into the mitigation bank it's in a permanent conservation status?

Ms. Bronson: Yes.

Mr. Fields: Okay. So there is no... you don't create the wetland and get the credits, let it run for 20 years, 30 years and then you could turn it into a development parcel?

Ms. Bronson: No.

Mr. Fields: So this is a way of allowing landowners who wish to preserve their land an economic means to preserve their economic return on their land other than something like development or at a point where active agriculture or forestry is also an option?

Ms. Bronson: Right.

Mr. Fields: Is that a fair assessment of how this works?

Ms. Bronson: It usually is; like I said, it has been before us families that do have farms and they become to where they can't maintain the farm anymore but they want to keep the property without developing it so they turn to mitigation banks. We have had quite a few crop up because of the need for mitigation credits. We have a new mitigation rule out that EPA and the Corps put out to where now if a developer impacts wetlands and streams they have to go to a viable bank. We don't like to see onsite mitigation anymore, we have a few of those here in the County, a lot of counties where they did their restoration or creation on site and it creates havoc for the Corps to have to monitor that. So it is best to have it all in one lump area that is going to be successful. We monitor the first year, they sell advance credits only, like 15% of their advance credits and that credits they have to put money into a long term management fund, they also have to put money into an escrow account for if it fails. So you will know within the first couple of years whether a bank is going to fail, if it is not producing or creating or maintaining what they have implemented. Then we suspend it and they can't sell the credit and we could disband the bank and they have to purchase credits elsewhere where they have already sold those credits conditionally to other developers. They have to recoup that.

Mr. Fields: Okay, thank you.

Mr. Howard: Thank you. Are there any other questions for Ms. Bronson? Ms. Kirkman.

Ms. Kirkman: Hi.

Ms. Bronson: Hi.

Ms. Kirkman: I want to go back to this notion that I think a number of us were quite concerned about which was that wetlands that are in pristine condition cannot be put in the wetlands bank but wetlands that are in degraded can and that that creates a perverse incentive in terms of the maintenance of the

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condition of wetlands. I wonder if you could explain to us the Corps' position on why unpreserved pristine wetlands would not be appropriate for wetlands bank.

Ms. Bronson: Well, they are appropriate if they are combined with an area that there is going to be some creation with. You cannot... they can preserve wetlands, like if there is an individual who is going to develop an area and impact so many wetlands and they have another site that is large and they have a lot of wetlands on it that's no creation involved, it is only preservation and that is how they are going to offset some of their credits, they can do that. But to make it a bank it has to a component of restoration and creation. We don't discourage preservation of the pristine wetlands if they are tied to the bank but you cannot have an area where there is 100% preservation.

Ms. Kirkman: Could you please explain to me how the Corps defines pristine, because I am just unaware of any pristine wetlands in Stafford County due to sedimentation and impaired water qualities. So I would like to hear what the Corps definition of pristine is.

Ms. Bronson: Well, I don't know... with so much development I don't know truly pristine an area that is not gonna be degraded somehow with erosion and sediment from building. There are some areas that are tidal areas, of course, they are probably untouched because they... especially a large area, if there is a large enough area, acres and acres, that is surrounded by wetlands and less development, they are going to be in good shape. Meaning that they're functioning, they're nature's sponge, they're cleansing the water before it returns to a tributary or tidal area. You have a habitat for endangered species or just any species living there.

Ms. Kirkman: So I am just trying to understand the core standard here. So pristine is not the standard, good is the standard and if they are in good shape but not preserved, if it was 100% of good wetlands, it could not be created as a wetlands bank?

Ms. Bronson: No. I think I know what you are in reference to in the area... there is no area for improvement and if there is not, it is considered 100% preservation.

Ms. Kirkman: But if there is not, there are number of areas in the County that are in good shape but are not preserved. In fact, a number of them have by-right subdivision plans on them, both on the Widewater and the Crow's Nest Peninsula. And my question is, why would those not be appropriate for wetlands mitigation bank?

Ms. Bronson: Well we... okay maybe this will help. We don't go out and look for areas for banks. Usually banks are the last on our list, we are for permitting and regulating the wetlands but wetlands banks are usually pushed to the back because we are there to approve it for entity to make money. It even says in our do's and don'ts, your bank may be approved or may not be. The monetary value and everything rest solely on the landowner or the agent or the consultant that is proposing the bank. So, if there are pristine areas of wetlands in the County or within any county, we can't just go out and arbitrarily say, well you can preserve this area and make a bank. This area would make a good bank. That is not up to us to decide that.

Ms. Kirkman: Who decides then it is appropriate for wetlands bank? I thought you guys were the ones that permit it?

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Ms. Bronson: We decide if they bring it to us, if they bring it to our attention and they want to make a bank but we don't arbitrarily go out and find an area to make a bank. It is not up to us to find mitigation banks.

Ms. Kirkman: Sure. So if a property owner came to you with a property that was in good condition and all the wetlands in it were in good condition but it was not preserved, there is a by-right subdivision plan on it, would you consider that for wetlands mitigation bank because there is no degradation that needs to be remedied?

Ms. Bronson: If there is not a component of restoration or creation, no it would not.

Ms. Kirkman: Why is that? That is what I am trying to understand. Why it is that you require it to have been degraded first?

Ms. Bronson: Well I don't... that is just the rule, there has to be components. The people that compose the interagency team that review mitigation banks, that is just some of the components that go with the mitigation bank.

Ms. Kirkman: And who created that component? Is that a federal statute? Is that a state statute? I mean where does that come from?

Ms. Bronson: I am not sure I can answer that. I know the guidelines that I have to follow, and that is when I review an area for a bank it has to have some components of restoration and creation. It just cannot be 100% preservation.

Ms. Kirkman: I want to know why not. Is it possible you can find that out for us? Because that is really a very serious concern of the Commission that this wetlands mitigation bank has the appearance of rewarding landowners that have degraded their property and not doing anything to assist the landowners that have been responsible stewards. I think that is the concern of the Commission and I am trying to understand where this barrier seems to be coming from. Is it something in the federal laws? Or is it something in the states statute? I mean, why is that a criteria or a requirement?

Ms. Bronson: Well, it is not really the landowners being rewarded; it does cost money... I mean they are putting out money. It could be a failed bank and then they are out all this money for planning and engineering and everything and they didn't reap anything out of it.

Ms. Kirkman: So, this was brought to our attention by one of the leading law firms in the State of Virginia, so clearly somebody thinks there is money to be had in this. So I would like to know where this requirement around the degradation and restoration comes from, that would be really helpful for us.

Mr. Howard: I think the concern is that there is an unintended consequence, which is what Ms. Kirkman has articulated, that you could conceivably reward someone for not doing the right thing with their land. I understand what you are saying about the farm and the farm example that you gave in Stafford, where you've farmed your land for many, many years and maybe there have been generations of family on that farm and in this case it is a cattle farm that you mentioned. Cattle or horses that move from one side of the farm to the next and so on and so forth and then as a result certainly there is going to be some impact to the RPA's and wetlands that exist on those properties. It sounds like the spirit of this was to go back to what Mr. Fields talked about, was to give that landowner an option

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instead of only selling to a developer, you could also reinvest in your property, make some additional money and not sell out to, quote, sell out to a developer if that is not your families desire to do that if you are looking to restore or preserve that land. Is that correct?

Ms. Bronson: Yeah, I mean we are not out there for the landowner to make money off of the mitigation bank.

Mr. Howard: We understood that but there is this unintended consequence that... it just seems... we just all want to understand that a little bit more. I think you have done a very good job explaining from the Corps perspective but I think the follow-up question, and I am not sure if it is for you Ms. Bronson or for Stafford County staff to come back and really tell us the origin of, you know, of language. Certainly the origin of the language in the Stafford County proposed amendment is... when I say Stafford County I mean staff.

Ms. Bronson: Yes.

Mr. Howard: However, you are going off of the guidelines from the Army Corps of Engineers, is that correct?

Ms. Bronson: Yes, I can ask the head person that has been on the interagency team for many years, I could ask him where it came from. I know the mitigation rule is in the Federal Register and that tells you...

Mr. Howard: The two terms you are mentioning are restoration and/or creation?

Ms. Bronson: Enhancement, restoration or creation. Enhancement is like if there is a riparian area that has been deforested from cattle, they have eaten the shrub and nothing has been developed, they have knocked the trees to where they are dying because they just have been impaired, that is enhancement. Creation is creating wetlands where there was once probably some wetlands areas and that is usually farmed areas; they have plowed and plowed, they have put drain tiles in the fields, ditches to drain off the water so they could farm it for many, many years. So a lot of time they go in and take out and cut into the diked areas or the berms and allow water to flow through to any area that give the hydrology back so that vegetation can withstand. That is one of my banks in King George, it was a farmed area but they had ditched, drain tiled and everything in the fields so it kept the water away where it would normally be. So that is where the creation comes from, there was probably wetlands there hundreds of years ago and they have through practices of farming and building these mechanisms have keep the water off so it is a dry area now. Usually within in five years, you will have the parameters of a wetland, which is the hydrology, the soils and the vegetation. If you see the soils changing and the hydrology is within 12 inches and maintaining and you've got the vegetation surviving in those conditions, then you have a wetland, you have created a wetland where there once was probably. Most of the times there are putting the wetlands back where they once were, not creating new ones and making them further out because they are taking the risk of spending money that's going to fail.

Mr. Howard: And then, another point that's been brought up and Ms. Kirkman has been bringing this up about Crow's Nest. In particular, if to her point, if the land was quote, not preserved and there was a by-right development there, why wouldn't that be a viable option for that landowner and or the County to reap some benefit by... you know, in perpetuity, preserving all that wetlands?



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Ms. Bronson: Right, well they have the option of doing... I mean, of course we can't tell them what to do with their land other than regulate...

Mr. Howard: No, no that wasn't the suggestion. If they were to come forward?

Ms. Bronson: But there again, and I will find out where it really came from, on the components of it, it just cannot. I can express again that it just cannot be 100% preservation, it has to be more out there. Because if it was preservation we would have everybody out there, you know, little parcels but we're wanting to preserve and sell for credits. It just doesn't work that way and it goes through a lot of scrutiny to be a bank so that we make sure that it does not fail.

Mr. Howard: Okay. Ms. Kirkman?

Ms. Kirkman: You also mentioned that you evaluate land uses in proximity for the proposed bank. What do you consider proximity?

Ms. Bronson: Well the adjacent property owners, we usually look at if there is a development going in, if they're using it for... if they are farming or right up stream and they have cattle still in the stream and it is upstream of where they are proposing to repair the stream. Well, how is it going to hold up downstream if you've still got heavy farming and cattle upstream? You know, we look at that, we may not take it because it is going to impair it again and you will continually be fixing the stream. For what? So we... some people timber, there has been timbering activities adjacent to a proposed mitigation bank, we don't like to see that.

Ms. Kirkman: So for instance, if later on in our agenda tonight we have a proposed reclassification for a property that is a P-TND, which is a dense urban mixed use type development and it literally is across the road from one of the properties that's one of the few large tracts that contains a large area, an old farm that would be appropriate by the Corps criteria for wetlands mitigation bank. Would the proximity of that Urban Development Area in any way endanger that farm potential use as a wetlands mitigation bank?

Ms. Bronson: It depends on how in the water basin is situated. It depends on how large that farm is and what it has to offer towards a mitigation bank. That farm may not be a good area for a mitigation bank. It may not have the components to create a mitigation bank. So, you know it is a case by case basis. Basically every site is different, every mitigation instrument that is created is different, every plan is different. Sometimes they are going to do certain areas that we think that maybe you will only get 50:1, 50 acres to 1 credit. So it is not... it is looked at as a whole from all the agencies and come to an agreement. So it is really a case by case basis.

Ms. Kirkman: And did it... following up on my colleague's question, did I understand the locality is not involved in that review process in any way?

Ms. Bronson: No, they usually have the consultant do the title search and everything for the deed restriction. I guess because we make sure there are no liens or anything on the property past and usually that is a showstopper for it. Like I said I would be more than happy to include the County if you want to be a voice in it, but it is usually a lot of technical stuff and sometimes it is even over my head, with the mitigation banking instruments.

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Mr. Howard: How many other municipalities... you mentioned your geography, how many other municipalities that you have responsibility for have this type of ordinance, zoning ordinance within their... or, yes zoning ordinance...

Ms. Bronson: Well, I have King George County...

Mr. Howard: Do they have a zoning ordinance?

Ms. Bronson: I don't know about the ordinance, but I do have a bank in that county.

Mr. Howard: Okay.

Ms. Bronson: They have not been involved with any of the process. The bank is in the third year now.

Mr. Howard: So if our county does not adopt this amendment, someone can still come to the Army Corps of Engineers and request this to take place.

Ms. Bronson: Yes, I am not understanding what your amendment... you are changing the zoning for land use, is that...

Mr. Harvey: Mr. Chairman, if I may. The firm that initiated this proposed ordinance amendment met with the Zoning Administrator several months back. And the Zoning Administrator indicated that from our zoning scheme, we do not have an existing definition that a mitigation bank could fit into as far as the zoning construct. So in our discussion with the applicant we indicated that either a zoning text amendment would be necessary for them to have a wetlands mitigation bank or they could apply for a conditional use permit for a use not listed.

Mr. Howard: If they wanted to... if an applicant comes before us and they want to make that exchange or barter that, it needs to be in the County's ordinance; is that what you are saying? In order for that to occur?

Mr. Harvey: For the use of a wetlands bank...

Mr. Howard: Right.

Mr. Harvey: ... to be allowed in the County it has to be either identified in our ordinance or the Board approves a conditional use permit.

Mr. Howard: So why would the King George property owner have gone to the Army Corps of Engineers to do that when they essentially would be in the same situation?

Mr. Harvey: Well it depends on how the King George ordinance is written. If their definition of agriculture is more broad than ours, it may be included. Or their Zoning Administrator may have said, well I think it is an agricultural use and therefore it is by-right.

Mr. Howard: Okay.

Mr. Harvey: I imagine that is the way it has been in a few other jurisdictions.

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Mr. Howard: So are we looking at this the right way then? That is the next question.

Ms. Bronson: It is usually Ag land that is proposed as mitigation bank.

Mr. Howard: Right.

Ms. Bronson: Forestry or Ag.

Mr. Lott: I spoke with planners in Culpeper and King George about this before we came up and they both told me they did not revise their ordinances. They did not put definitions in because they considered mitigation banks close enough to agriculture that they would just allow them to go as by-right activities without making any revisions to their code. Other counties have, like I say Spotsylvania, you have to get a conditional use permit. Loudoun, they have it by-right in certain districts and not allowed in others, sort of like what we are doing. There is a combination of things.

Ms. Kirkman: Just...

Mr. Howard: Ms. Kirkman?

Mr. Lott: What the State Code allows is for the counties... jurisdictions to govern where they go. What zoning districts you put in them and also to review them when they come in like the plan... this one the grading would have to come into the department to be reviewed as a grading plan. It would have to get grading permits. That is really where the State Code allows us to participate. We are not... the counties do not have jurisdiction over non-tidal wetlands. DEQ and the Federal Government do. So we are not really involved in that whole permitting process, so we don't get... I guess we are not really players if you will for the whole banking process because of that.

Ms. Bronson: Because there is not a lot of land disturbance.

Mr. Howard: So if we adopted this amendment we still would not be necessarily involved. This would really be an advantage for the property owner who wants to make that exchange... or get the credit.

Mr. Lott: Our involvement is like I say to determine where it is. I mean we would review it.

Mr. Howard: Sure, that is a benefit to the county if you could determine where in fact it would be.

Mr. Lott: Where it would go and make sure it goes through the proper E&S reviews and all of that. But after that... that is really what the Code allows the counties to do.

Mr. Howard: Ms. Kirkman, you had a question?

Ms. Kirkman: But its part question, part statement in reference to what Mr. Harvey had to say. And that is we... I believe we do have a provision in our Zoning Ordinance that says that any use not otherwise listed can be done through obtaining a...

Mr. Howard: Conditional use permit.

Ms. Kirkman: ... conditional use permit. Is that correct Mr. Harvey?

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Mr. Harvey: Yes ma'am, that is in Section 28-37 of the Code if I remember correctly.

Mr. Howard: To be exact.

Ms. Kirkman: So if for instance the Zoning Administrator interpretation or our A-1 Zoning Ordinance was that it does not list wetlands mitigation bank, then we already have an existing remedy which is they could apply for a conditional use permit. Is that correct?

Mr. Harvey: Yes, that is a remedy that the applicant could pursue. Also in talking with the applicant if they did not want to pursue that they could request an amendment to the Code, which they have.

Ms. Kirkman: So right now, without making any changes at all to the Zoning Ordinance, if an applicant wanted to create a wetlands mitigation bank they do have an avenue to do that. Is that correct?

Mr. Harvey: That is correct.

Ms. Kirkman: Thank you.

Mr. Howard: Alright, thank you. I will bring it back to the Commission for discussion under unfinished business because we...

Ms. Kirkman: Could we thank the Army Corps...

Mr. Howard: Oh yes, absolutely. Thank you Ms. Bronson very much for coming down and...

Ms. Bronson: And I will try to find out your answer.

Mr. Howard: Yes, we would appreciate that.

Mr. Fields: Thank you very much.

Mr. Howard: There is more work for us to do. It has to go before public hearing. We would like to get that answer, if we could, before two weeks. Thank you very much though for coming down. So bring it back to the Planning Commission for discussion because we have a deadline on this really of today to hit a potential hearing date of June 15<sup>th</sup>. And as we know if we don't do anything it's going move forward as written. But taking action on it at least gives us a chance to take action. Although the wording, and maybe Mr. Smith you have already looked at this. Are there any changes that the Planning Commission can make on this?

Mrs. Hazard: Mr. Chair I think we already added A-2 from when it was initially sent down to us. I believe it was only A-1. That is what I remember.

Mr. Howard: I believe you are correct, but are we allowed to do that is really the question.

Mr. Fields: Pass this through, up or down?

Mr. Howard: Yes, I don't have the original wording on that.

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Mr. Fields: I don't either.

Mr. Howard: I am not sure if Mr. Smith has it in front of him either. Because if we advertise this and we advertise it with the change that we made at the last meeting, the real question is, were we allowed to do that?

Mr. Smith: Mr. Chairman?

Mr. Howard: Yes.

Mr. Smith: I think that this is the Resolution that the Board sent that referred the proposed amendment down to the Planning Commission. It does not include the language that the Board has included in the past that the Commission may make such amendments as it deems necessary or desirable. But I would add for the Commission's consideration if the Commission could initiate its own amendments under its own authority to propose zoning text amendments.

Mr. Howard: Right.

Mr. Fields: A second parallel amendment... parallel ordinance?

Mr. Smith: Yes, Mr. Fields. It could be parallel or incorporate both the Board's proposed and any other changes that the Commission deems necessary or desirable.

Mr. Howard: Okay, what is the... thank you Mr. Smith. What is the appetite of the Commission?

Mr. Mitchell: Mr. Chairman?

Mr. Howard: Mr. Mitchell?

Mr. Mitchell: Mr. Chairman, I make a motion that we forward this for public hearing, the wetlands mitigation bank.

Mr. Rhodes: Second.

Mr. Howard: Second by Mr. Rhodes. We are in discussion now.

Ms. Kirkman: Mr. Chair, I am going to make a motion to amend the primary motion.

Mr. Howard: Okay.

Ms. Kirkman: And my motion to amend the primary motion is to at the same time that the Planning Commission requests that the Board withdraw this proposed ordinance. I know we need to go ahead and send it to public hearing otherwise we have deemed to approve it, but at the same time I think we... Well I will wait until... to see if there is a second...

Mr. Fields: Second.

Ms. Kirkman: ... before I give the rest of my reason.

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Mr. Howard: Can we... I would have seconded it just for discussion also but Mr. Fields seconded. So your motion is to include with this proposed ordinance a recommendation to the Board of Supervisors to not move forward with an amendment to the Zoning Ordinance on wetland mitigation bank and to allow the current process as it exists to be the...

Ms. Kirkman: Yes.

Mr. Howard: ... avenue.

Ms. Kirkman: That is correct.

Mr. Howard: Okay, discussion?

Ms. Kirkman: Mr. Chair, I made that amendment... that motion to amend because it is clear we already do have an avenue to address this. I think all of us have expressed some concerns about potential unintended consequences about moving this forward as a by-right use. And the nice thing about a conditional use process is that it is a way to involve the locality. And right now it does seem as though because of the way non-tidal wetlands are regulated there is very little room until they actually go for the grading permits to involve the locality. So that's is why I would recommend rather than going through the expense of moving this all the way to the Board, that we ask the Board now to withdraw this ordinance.

Mr. Fields: At some point, it doesn't necessarily have to be amended to this if that should be the case. I agree with the process. I think the CUP is ultimately a better process. One thing we may look at, since this is designed to help in its best case scenario help people with agricultural land passing out from probably from generational change passing out of agriculture, it would probably be worthwhile to look at a... perhaps a separate fee structure for the CUP. So that the CUP... the current... a typical CUP is fairly a stiff fee so I would not like that... I would not want that to be punitive to the land owners genuinely seeking this, but I agree certainly with Ms. Kirkman and perhaps some other colleagues that I think the process of the CUP is always a healthy one for the County. That way the Planning Commission and the Board both get to look at this. I think that would help everybody in the process.

Mr. Howard: Just for clarification, so Ms. Kirkman your motion... the spirit of your motion, the way you made the motion would actually take this proposed amendment to the Zoning Ordinance and send it back to the Board of Supervisors now or post the public hearing.

Ms. Kirkman: No Mr. Chair, to clarify what it would be doing is the Board will be meeting prior to us holding a public hearing on this. And what it will be doing is requesting the Board at their next meeting have a discussion and make a decision regarding withdrawing this...

Mr. Howard: Prior to our public hearing?

Ms. Kirkman: Yes.

Mr. Howard: Okay.

Mr. Hirons: And Mr. Chairman.

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Mr. Howard: Mr. Hirons.

Mr. Hirons: Would we have to include language for them to allow us to cancel our public hearing which would have been advertised and scheduled?

Ms. Kirkman: If they withdraw it...

Mr. Hirons: Or is it just assumed if they withdraw then the public hearing would be cancelled regardless. This may come up again later tonight.

Mr. Howard: It could. Mr. Harvey do you have an answer to that? Would we have to include that in the motion or I am not sure if Mr. Smith has to answer that.

Mr. Harvey: Mr. Chairman, I would assume that the Commission would need to request the Board to rescind their previous resolution. And at that point if the Board did rescind its previously resolution referring the amendment to you then you could, as Chairman, withdraw the advertisement.

Mr. Howard: But I don't we'll... I don't know if we would have a...

Ms. Kirkman: Mr. Harvey was actually quite helpful. My motion is that the Planning Commission requests that the Board rescind their previous...

Mr. Howard: Okay.

Mr. Harvey: Mr. Chairman, I will note that this proposed amendment came at a request of a third party. It was not...

Mr. Howard: Correct.

Mr. Harvey: It was presented to the Board of Supervisors which referred it to the Commission. It was represented by an attorney that is working for the firm that is trying to establish a wetlands mitigation bank in the County.

Ms. Kirkman: Mr. Harvey, could you please explain how that is relevant to what we are discussing? Because my understanding is, based on what Mr. Smith has told us, is that third party really doesn't have any standing, that it is the Board at this point that has legally initiated this. So I am trying to understand what relevance your comment has.

Mr. Harvey: Just for information...

Mr. Howard: I think it was just an FYI. Yes, just an FYI for us.

Ms. Kirkman: Alright.

Mr. Howard: So Ms. Kirkman, you have amended your motion which is allowable to use the word rescind?

Ms. Kirkman: Right.

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Mr. Howard: Okay. And the seconder accepts that?

Mr. Fields: Accept.

Mr. Howard: Okay. So is there any further discussion from anyone?

Mr. Mitchell: I will not be supporting Ms. Kirkman's motion. I think the wetlands mitigation bank stands to make some changes. I think they could be some very good changes and do quite a bit of preservation at the same time.

Mr. Howard: Thank you. Any other comments or questions?

Mr. Rhodes: We are moving it to public hearing and at the same time asking to rescind?

Mr. Howard: Correct.

Mr. Rhodes: Okay.

Mr. Howard: It is being moved to a public hearing but at the same time we are asking the Board of Supervisors to rescind the proposed amendment.

Ms. Kirkman: Mr. Chair, just a point of order. I think what we need to do is vote on the motion to amend first.

Mr. Howard: We do.

Ms. Kirkman: I was just wanted to make...

Mr. Howard: We are clarifying things so everybody understands what we are voting on.

Ms. Kirkman: Yep.

Mr. Howard: So the first part of the vote is Ms. Kirkman's motion seconded by Mr. Fields. So all those in favor of Ms. Kirkman's motion which includes the original motion but it adds the amended language signify by saying aye.

Mr. Fields: Aye.

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay?

Mr. Mitchell: Nay.



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Mr. Howard: The motion carries 6 to 1. That moves us to item 2, Reclassification...

Ms. Kirkman: Mr. Chair, I think just as a point of order what we just did was voted to...

Mr. Fields: Amend the motion, but not...

Ms. Kirkman: Amend the motion, but we have not voted on the primary motion yet.

Mr. Howard: My understanding was that you included the primary motion. That is not true? Because you amended... I thought you were amending the...

Ms. Kirkman: I think the way by Robert's Rules work is first the motion to amend and then if the motion to amend is accepted by the body then you have to vote on the primary motion. But if we need to get...

Mr. Howard: I understood you that you amended the motion... you amended the main motion which you inserted words. Mr. Fields seconded that. And in your motion we included the main motion which was to send this to public hearing. That is not correct?

Ms. Kirkman: I don't believe you can actually do that under Robert's Rules. I think all...

Mr. Howard: I think we have always done it that way.

Ms. Kirkman: I think the only thing I can do is make a motion to amend. And if that motion to amend is passed by the body then I think the body as a whole then votes on the...

Mr. Howard: I interpreted your motion as a substitute motion which amended the language.

Ms. Kirkman: See, I said an amendment rather than a substitute motion.

Mr. Howard: Okay. Mr. Smith?

Ms. Kirkman: So whatever... I just want to make sure we follow the proper procedure.

Mr. Howard: I agree.

Ms. Kirkman: Particularly since our local Circuit Court has decided that Robert's Rules of Order adopted by the Board are... have the weight of law. So I want to make sure we...

Mr. Howard: They always have. So Mr. Smith?

Mr. Smith: Mr. Chairman and Ms. Kirkman, without taking a moment to review Robert's Rules and think this through, my initial advice is the Commission may want to go ahead and take another vote...

Mr. Howard: Okay, so...

Mr. Smith: ... clarifying that it is accepting the amendment proposed by Ms. Kirkman and then that it is... if it chooses to accept the amendment...

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Mr. Howard: Alright, so when I restated Ms. Kirkman's motion that we did include the original motion so we voted on that and it passed 6 to 1. We will go back to the original motion made by Mr. Mitchell which was to send the amendment to the Zoning Ordinance, wetland mitigation bank to public hearing. All those in favor signify...

Mr. Hirons: I am sorry, can you clarify that again?

Mr. Howard: The original motion, made by Mr. Mitchell was to send the amendment to the Zoning Ordinance wetland mitigation bank, to public hearing on June 15<sup>th</sup>.

Ms. Kirkman: And that motion has now been amended. So it includes my amendment.

Mr. Fields: Right.

Mr. Howard: All those in favor signify by saying aye.

Mr. Fields: Aye.

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay?

Mr. Mitchell: Nay.

Mr. Howard: Okay, the motion carries 6 to 1. Both motions carry 6 to 1. Good luck with that one Stacie, getting those notes right. Okay, item 2, reclassification, Quantico Corporate Center.

Mr. Harvey: Mr. Chairman, Mike Zuraf will give the Commission an update of the application.

2. RC1000338; Reclassification - Quantico Corporate Center - A proposed reclassification from R-1, Suburban Residential and M-1 Light Industrial to B-2, Urban Commercial Zoning District to allow office, commercial, and retail uses on Assessor's Parcels 12-1, 12-3, 12-4, 12-5, 13C-A, and 13C-D, consisting of 15.06 acres, located on the north side of Telegraph Road, and east side of Interstate 95 within the Griffis-Widewater Election District. **(Time Limit: May 31, 2011) (History - Public hearing continued at March 2, 2011 Meeting to April 6, 2011 Meeting) (Deferred at April 6, 2011 Meeting to May 4, 2011 Meeting) (Deferred at May 4, 2011 Meeting to May 18, 2011 Meeting per applicant's request)**

Mr. Zuraf: Good evening Mr. Chairman and members of the Planning Commission. This case is a request for a reclassification for Quantico Corporate Center has been tabled a few times to allow time for the applicant to work on modifications to the proffers. You did receive in your package revised proffers that attempt to address the Planning Commission's concerns. There are also comments from the Historical Commission they reviewed the historical structures report that was provided by the

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applicant. Also tonight you did receive at your desk some additional materials, a letter provided by the applicant further describing some of the background of the project. The original proffers that apply to the existing Quantico Corporate Center are just more for reference. That is the... where the existing office buildings are being constructed. That is land that is zoned M1, Light Industrial and B2, Urban Commercial. And then also you did receive a portion of the traffic impact assessment that has some of the summary recommendations relating to this project. The big issue with the revised proffers is the transportation improvements and specific recommended improvements, some of those were added in. There is in the proposed proffers a third access point proposed, but that's subject to County acquisition of right-of-way. Should the County do that then the applicant is willing to go through with the cost of construction of that third access. Subsequent to sending these proffers out the applicant did have a teleconference with Ms. Kirkman to discuss further some of these issues and some of the concerns. As a kind of a result of that meeting and some of the discussion, there was kind of a desire to really look at what the impacts of the project might have on the road network without that third access point. Since that third access point is not necessarily a guarantee, there is a request to look at possibly remodeling other transportation impacts that would be in this area without the BRAC improvements. So really looking at okay... kind of getting a better idea of really what the impacts of Quantico Corporate Center would be. Because once you put the BRAC impacts into the model, that just really throws things out of whack or that might be the case. So that is why the request was made for follow-up study of that. Looking at additional proffers to include some more specific improvements as a result of that study and some of the specific that are within the TIA today. Also, removing the references to the County acquiring the right-of-way for the third access point. Also requesting a restructure of proffer 17, this one relates to...

Mr. Howard: Mr. Zuraf, are you going through what we have in front of us or is this something...

Mr. Zuraf: No, I'm going through some of the follow-up.

Mr. Howard: Oh, because I was going to say I don't have that in front of me.

Mr. Zuraf: Yes, this is new information. There was a request to look at Corporate Drive being constructed further on. Right now it is worded to allow it to be constructed, I think it is six months after the first occupancy permit in this area. There is a request to kind of move that up sooner in the process prior to the first occupancy. And then also consider deferral to the next meeting, June 1<sup>st</sup>. We did after having this meeting receive follow up word from the applicant that they were not willing to defer. You are up against a deadline tonight to make a decision. They've decided not to request an extension of the time limit. They did say that they were willing to work on revising the proffers and doing some of the studies as the case moves forward to the Board of Supervisors and that is kind of where we are today.

Mr. Howard: Ms. Kirkman?

Ms. Kirkman: Mr. Zuraf?

Mr. Zuraf: Yes.

Ms. Kirkman: We... in our... in the joints with staff discussion with the applicant what we agreed, what the goal was, the general goal was to adequately address the traffic impacts of this project if right-of-way for the third access point could not be voluntarily obtained and there were only two access points. Which through the course of the conversation we discovered was in fact what the plan

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was for the original Quantico development there, that there will only be two access points. So we seem to agree on that framework for structuring the proffers. And the first piece of that was that the traffic impact analysis had in fact modeled out a scenario that did not include the third access point. And we asked the applicant, there were a number of traffic improvements that were recommended as a result of that modeling, we asked the applicant what they could commit to proffering in terms of those and their response was they did not want to proffer a percentage because the percentage might be more... you know, they may be responsible for a small portion and the percentage would inflate their costs. I think that was part of the discussion, so what we came... as sort of a way to manage this and move forward, we asked the applicant to model the scenario without the BRAC development to identify the impacts that are attributable to the Corporate Center. Do you know did the applicant... was the applicant able to get that done?

Mr. Zuraf: Well the applicant's traffic engineer is here; I'm not certain if that has been done.

Ms. Kirkman: Okay. The other point... another addition that required no additional modeling what so ever was that modeling out of what is referred to as scenario one, identified the need of a second northbound turn lane along Route U. S. 1 and the applicants position was that they were reluctant to proffer that because they would have to pay at this time for the widening of Route 1 to make that possible. So we discussed restructuring the proffer to resemble what was previously done down along Deacon Road where the proffer to build the turn lane would be conditional upon the overall widening of the road. Did the applicant revise the proffers to reflect that?

Mr. Zuraf: There were no proffer revisions provided.

Ms. Kirkman: So none whatsoever?

Mr. Zuraf: No.

Ms. Kirkman: So the applicant also did not revise the proffers to remove the references to the County acquiring right-of-way for the third access point?

Mr. Zuraf: Correct.

Ms. Kirkman: Does that mean that the applicant also did not revise the proffers to restructure proffer 17 so that Corporate Drive is completed prior to the issuance of the final occupancy permit?

Mr. Zuraf: It was not changed.

Ms. Kirkman: Then lastly there were some sort of smaller things but it is certainly important to the residents there. The family members that live there have been actually to most of these meeting and I actually encouraged the older gentleman who has quite a time getting around to not come tonight because of his health... some health issues. He was concerned about a family cemetery which I don't believe is directly in the path of the Corporate Drive extension, but is quite close to it. And it seemed that it would be a great relief to the family to have stated in the proffers that the family cemetery which, I think extends back over a hundred years would not be disturbed. Did the applicant revise the proffers to include that?

Mr. Zuraf: No.

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Ms. Kirkman: Okay.

Mr. Howard: When were these request made of the applicant?

Mr. Zuraf: This was through discussion this morning.

Mr. Howard: Okay.

Ms. Kirkman: Mr. Zuraf, when did the applicant send out their last version of the revised proffers?

Mr. Zuraf: That was... well I don't have the exact date but I believe it was probably early half of next week... of the last week.

Ms. Kirkman: It was the end of last week.

Mr. Zuraf: Well, it was in advance of the mail-out.

Mr. Howard: Okay.

Ms. Kirkman: Thank you.

Mr. Howard: We have to take a hard stop at 7:30. But if the applicant is here and they want come up quickly, I will invite them back after we go through the public hearings. But some things you may want to think about while we are doing the public hearings. You know you heard what was said and I guess is there any... you know any quick comments. But what I would like you to think about is the preservation of the family cemetery while we go through that.

Mr. Moncure: Sure. James Moncure, I am a partner in the Quantico Corporate Center. How much time do I have?

Mr. Howard: You have like 30 seconds. We'll bring you back up, but...

Mr. Moncure: Just to address... just to hit the cemetery very quickly. I have worked with that family extensively. We have agreed to protect the cemetery and actually enlarge the cemetery.

Mr. Howard: Would you put that in the proffers?

Mr. Moncure: It's fine to be in the proffer.

Mr. Howard: Okay.

Mr. Moncure: But it is actually an agreement with that family and there are multiple family members in there. Nobody is actually sure who is in charge of the cemetery.

Mr. Howard: Okay.

Mr. Moncure: So what we are doing is we are developing a trusteeship, much like I am on Aquia Church, where there are trustees of that family that will oversee that cemetery. We are going to

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provide parking and everything else. The family has been extremely cooperative in that and they know exactly what our intention is with the cemetery.

Mr. Howard: Okay. And then I guess think through those other comments, but we will call you back up after the public hearing.

Mr. Moncure: Thank you.

Mr. Howard: Okay we are now on a hard stop and we have to open up the meeting this evening for public presentation. The public presentation portion of the Planning Commission meeting is when anyone from the public may come forward and address the Planning Commission on any topic other than something that is scheduled this evening for a public hearing. And we do have two public hearings scheduled this evening. We have the reclassification of Clift Farm Quarter and we also have an amendment to the Zoning Ordinance, which would amend the Zoning Ordinance or Code by establishing a new redevelopment area in Boswell's Corner. So if you are here to talk about those two items you will have time during the public hearing. If you want to address the Planning Commission on any other topic you may do so by stepping forward to the podium. We just ask that you state your name, your address and we want to let you know you have three minutes to address us. We won't answer you directly back. When the green light goes on you are free to tell us what you want. When the yellow light starts to flash, that mean you have about a minute left. And when the red light starts to flash, we ask you to conclude your comments and allow the next speaker to address us. Anyone wishing to address the Planning Commission may do so by stepping forward now.

3. Temporary Family Health Care Structures (**Time Limit: July 4, 2011**) (**Deferred at April 20, 2011 Meeting to May 4, 2011 Meeting**) (**Deferred at May 4, 2011 Meeting to May 18, 2011 Meeting**)  
(*Authorize for Public Hearing by: May 18, 2011*)  
(*Potential Public Hearing Date: June 15, 2011*)

*Discussed after public hearings.*

4. Comprehensive Plan: Implementation Plan (**History - Deferred at April 6, 2011 Meeting to April 20, 2011 Meeting**) (**Deferred at April 20, 2011 Meeting to May 4, 2011 Meeting**) (**Deferred at May 4, 2011 Meeting to May 18, 2011 Meeting**)
5. Rappahannock River Overlay District and Potomac River Overlay District (Referred back by Board of Supervisors) (**Time Limit: October 6, 2010**) (**History - Deferred at June 16, 2010 Meeting to August 18, 2010**) (**Deferred at July 21, 2010 Meeting to September 1, 2010**) (**Deferred at September 1, 2010 Meeting to October 6, 2010 Meeting**) (**Deferred - Requesting additional time from Board of Supervisors**)

NEW BUSINESS

None

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**7:30 P.M.**

PUBLIC PRESENTATIONS

Mr. Waldowski: Paul Waldowski. I am glad I wore my Goofy shirt because I had to weather the rain to get my three minutes. I initially was going to do some commuter parking, but I noticed that my email limited the capacity of the County's capabilities. So I will have to get a little more creative with the JPEGS to make them there. But I will still talk about commuter parking. I am real familiar with commuter parking at 610 with the two major lots. But also 630 has it, the County also has commuter parking along 17 and also at the two VRE Stations. And one of the things that I have always stressed was vertical parking garages, but I always hear this noise that they are too expensive. So I was going to bring you some 21<sup>st</sup> century ideas that the Japanese have come up with and there is even some real neat aspects that some of the city parking's are doing. They are using one lane to let out cars on either side, putting cars all the way around. I know you are planners, I know you can't do nothing with VDOT, but I thought I would share that information with you. The other item that is on my list is to basically let all the citizens know that our elections districts have been sent off to the Justice Department. You as a citizen have that capability of going to the website and you can address the Justice Department and you don't have to use snail mail anymore, you can do email. You do have to follow their rules because they are the U. S. Government so you have to put things really enlightening in subject matter area. And one of the things that I will just bring up to each of you, I just gave a speech yesterday about variance and if variance would have been used there would have been no geographic area moved in Rock Hill or the Griffis-Widewater District. And you will see in the new election districts, we are now in the Hartwood District right in the Courthouse area. And it is very interesting when you start looking at the numbers just by using variances, which is nothing more than a confidence interval, instead of using the median because medians are mediocre and even the State uses medians. But confidence intervals are much more realistic in using... when trying to do a complex project like setting up voting districts. And one other thing I will finish with is just by doing simple ratios there is a real easy way to show what needs to be moved. Thank you.

Mr. Howard: Thank you. Anyone else wishing to address the Planning Commission may do so by stepping forward to the podium. Seeing no one else advancing towards the podium, I will now close the public presentations of this evenings meeting and open up the public hearing. The first public hearing on the agenda this evening is RC29000108 which is the reclassification of Clift Farm Quarter. Mr. Harvey?

PUBLIC HEARINGS

6. RC2900108; Reclassification - Clift Farm Quarter - A proposed reclassification from A-1, Agricultural Zoning District to P-TND, Planned Traditional Neighborhood Development Zoning District to allow a planned urban development, including a mix of commercial and residential dwelling units with neighborhood amenities, on a portion of Assessor's Parcel 38-124, consisting of 141.40 acres. The property is located on the east side of Jefferson Davis Highway approximately 1,250 feet south of American Legion Road and along Eskimo Hill Road, within the Aquia Election District (Falmouth Election District under the recently adopted election redistricting). **(Time Limit: August 16, 2011)**

Mr. Harvey: Mr. Chairman, Mike Zuraf will be making the presentation for staff.

Mr. Howard: Thank you. Good evening Mr. Zuraf.

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Mr. Zuraf: Good evening again. Can I have the computer please? Okay, this request for Clift Farm Quarter is to reclassify the property from A-1, Agricultural, to a P-TND, Planned Traditional Neighborhood Development zoning district for the development of a planned urban development. The applicants are Mark Giganti with D.R. Horton and Dan Doody with Dominion Virginia Power. The agent for the applicants is Clark Leming. The Assessor's Parcels include 38-124, a portion of that, and 38-123A. The area is 141.4 acres, that's the area subject to rezoning. And the 141.4 acres is highlighted in red; this is the portion of parcel 124 that would be subject and rezoned to Planned Traditional Neighborhood Development. The other area that is highlighted with the hatching, those are other lands that are subject to the proffers. They are also owned by D.R. Horton. And this other portion of 124 is not subject to this case. Surrounding the site, you see much of the site is zoned A-1, Agricultural. The land to the south is A-1, Agricultural; it's undeveloped. There is an approved preliminary plan to the south. Over to the east is A-1 land, you have the correctional facility in this location. As you go to the north and east, this is the location of the County landfill. To the north of the site you have M-1, Light Industrial zoned property. This is a site where a research office building is being developed right now. And you have other A-1 land also that is along Eskimo Hill Road to the north and along State Shop Road you have a mix of undeveloped properties and some residential uses in this location. To the west of the site, on the opposite side of Jefferson Davis Highway, you have A-1 land and M-1, Light Industrial, land, generally industrial uses. Auto salvage yard uses are in this location, industrial uses as you get further south down Route 1 in the Penny Industrial Park. Looking at the zoning history of the site, there have been several development applications that have come in over the last six years. Starting in May 2005 there was a Preliminary Subdivision Plan that was approved and concurrently a Comprehensive Plan Compliance Review. The Preliminary Subdivision Plan was for a 145 lot subdivision that basically covered the entirety of that parcel, 479 acres. It was zoned for an A-1 agricultural by-right three acre lot subdivision and the Comp Plan Compliance Review for the extension of sewer outside of the Urban Service Area. The Urban Service Area line at the time basically split the property in half; it went down the Dominion power line easement that splits the property. In April of 2006 following Preliminary Plan approval, the subdivision plat was submitted for a portion of this subdivision, seven lots, and that application actually has been withdrawn. Then in August of 2006 the first reclassification came in on this property to rezone the property to the PD-2, Planned Development 2, zoning district. That included 1,645 residential lots and 625,000 square feet of commercial development. That application has been withdrawn. Then in May of 2007 there was two requests, a request for a Comp Plan amendment and reclassification. The reclassification was to the Planned P-TND zoning district also. It proposed at the time 1,740 residential units and 200,000 square feet of commercial. That application also has been withdrawn. In May 2008 there was a construction plan for a portion of the A-1 by-right subdivision; that application is still open and not approved. Looking at the existing features, the site is undeveloped. It is all forested land cover with the exception of the power line easement which is open kind of meadow within that easement. Also, you have, as far as topography, is rolling topography and steep slopes greater than 25% that cover the property. There is a stream corridor that bisects the property and along that stream corridor you have about 26.2 acres of area that's in sensitive resources that can be classified as wetlands, floodplains or steep slopes along that corridor. Also, now looking at the specific development proposal, when somebody is coming in to request a P-TND application, typically more information is needed than the typical reclassification. It requires a regulating plan in addition to the typical general development plan that we see, and then also neighborhood design standards. The regulating plan highlights transect zones which I'll get into and those are general districts that kind of control the intensity and amount of development that would occur in an area. They just cover general blocks, larger areas, and then the development standards within the ordinance regulate how development occurs within those different transect zones. They range from T-1 which is kind of a sensitive area where land should be preserved, up to a T-6 which is the more high density urban areas. And then there's a variation of development



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within the transect zones in between. Also, the regulating plan identifies the road network through a site, identifying primary roads and neighborhood streets and the general transportation pattern that will occur in the project. It highlights civic spaces, also pedestrian sheds around those civic spaces which are areas within 1,300 feet from civic spaces; also, primary commercial frontages along roads and vista terminations. The general development plan provides a little more detail and shows how a site might be developed with a more detailed road network and where lots and different types of uses might occur within the site. It highlights also the existing conditions, open space, utilities and stormwater, giving a little more detail than the regulating plan would. And the neighborhood design standards gets into the landscaping details, the details of architectural features that may be... regulates how the neighborhood would look in the future and all the development would have to follow those features that are proposed. Within this proposal, the site would have three transect zones, a T-6 zone, a T-4 zone and a T-1 zone. The T-6 zone is a higher density area; it covers 24 acres of the site. It does include 50% of that area as non-residential uses. That area is oriented towards Route 1. The other half of the T-6 zone is further to the east and has more of the high density residential uses along it and in that area. The T-4 zone covers 84.4 acres; it's primarily residential. Only 7% of that area is non-residential. Actually, according to the Zoning Ordinance, 20 acres of that area would be required to be non-residential, so the applicant is requesting a departure from the standards in the ordinance. And that request specifically goes to the Board of Supervisors. The T-1 zone, the preservation area, it covers 32.5 acres. It includes environmentally sensitive areas along the stream corridors. In this proposal, the T-1 area includes only the Critical Resource Protection Area; it does not include the steep slopes greater than 25% or the intermittent streams that are adjacent to that. So basically what you do have here is this proposal is reliant on the separate ordinance that is being proposed that would amend the P-TND district, specific to the T-1 area, that would remove those steep slopes and intermittent streams from what is required to be in a T-1. So, if that ordinance doesn't pass, then this application would have to be adjusted to expand those T-1 areas to include more of these environmental areas as required.

Ms. Kirkman: Excuse me, Mr. Chair?

Mr. Howard: Ms. Kirkman.

Ms. Kirkman: Can I get some clarifi... what is the status of that ordinance?

Mr. Zuraf: That ordinance I believe is scheduled for public hearing at the... is it the June 1<sup>st</sup> meeting Jeff?

Mr. Harvey: Yes.

Mr. Howard: Yes, June 1<sup>st</sup>.

Ms. Kirkman: So, if I understand correctly, then we have in front of us tonight an application which does not currently comply with the Zoning Ordinance, is that correct?

Mr. Zuraf: Well, as it's shown it doesn't but it, I guess, is no different than any use... we do get a lot of cases that are dual applications for a rezoning and conditional use permit where a use if proposed that might require a waiver of floor area ratio. So the use as proposed doesn't meet the floor area ratio so in effect you do get other cases that come in that are dual applications that don't quite meet the letter of the law because they're kind of reliant on each other.

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Ms. Kirkman: Those dual applications though have to do with specific requests for specific parcels. In this instance, my question is does this application, as it's before us now, comply with the Zoning Ordinance as it exists now?

Mr. Zuraf: It does not include the steep slopes and intermittent stream buffers that are... that the ordinance calls for, yet this would have to just be adjusted if that separate request which is happening and is scheduled doesn't occur.

Mr. Howard: Right, so anything that's currently shown to us this evening in the T-1 transect zone is not in compliance with our current Zoning Ordinance.

Mr. Zuraf: Right.

Mr. Howard: Okay.

Ms. Kirkman: And does staff typically move forward applications that are not in compliance with the Zoning Ordinance?

Mr. Zuraf: Typically we wouldn't but, in this case, there's a reason for moving it forward.

Mr. Howard: I think Mr. Zuraf answered it; Mr. Harvey, I don't know if you want to chime in yourself but there are other times applicants have come forward where in tandem they are requesting a modification or a change in the Zoning Ordinance and, to Ms. Kirkman's point, for maybe a particular parcel where typically it's in tandem to the parcel that's being shown. In this case this is a Zoning Ordinance change that was proposed that is going to public hearing on June 1<sup>st</sup> and does impact this application to the extent that the T-1 transect zone may have to be changed by the applicant if that ordinance is not passed.

Mr. Zuraf: Right.

Mr. Howard: Or adopted I should say.

Mr. Harvey: Yes, Mr. Chairman, this is a little different than most cases we see. Most cases we see, as Mr. Zuraf pointed out, is you have a use that requires both a zoning change and a conditional use permit. So, technically, you couldn't approve the conditional use permit until the zoning change was adopted first. This is similar in that we have to change the Zoning Ordinance but, as Ms. Kirkman says and has indicated, this has broader ramifications because it could affect other future P-TND requests. We do note that you have a general development plan that would have to be changed if this ordinance does not go into effect. This ordinance amendment was also filed on the request of the landowner and has been forwarded by the Board of Supervisors to the Commission for its consideration. So, from a staff perspective, this is a timely discussion because you have a real life case in front of you and with the ordinance amendment you can see what the impacts potentially are.

Mr. Howard: Yeah, and we have until August 16<sup>th</sup> to conclude our thoughts on this item that's before us.

Ms. Kirkman: If this is... if the text amendment is going... if the amendment to the Zoning Ordinance is coming up in June, why wasn't this just held until that time, when we could have an application in front of us that was actually in compliance with the Zoning Ordinance?

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Mr. Zuraf: Well, the applicant was ready to move forward to public hearing with the plan as it was provided and prepared.

Ms. Kirkman: So the applicant requested that this move forward even though it was not in compliance with the Zoning Ordinance?

Mr. Zuraf: Yes.

Ms. Kirkman: Thank you.

Mr. Howard: Go ahead Mr. Zuraf; continue.

Mr. Zuraf: Computer please again. So, I've kind of generally described the three transect zones that apply to this site. The regulating plan also doesn't highlight the pedestrian sheds that are around civic uses and civic sites. They are required to cover all the... and all residential uses are required to be within pedestrian sheds and this plan does that. They do highlight also the street network and identify primary streets through the site. This is the regulating plan that identifies the location of the three transect zones. Along Route 1/Jefferson Davis Highway you have the T-6 zone; this is the commercial area. You have another T-6 area further to the east. There's the primary street through the site runs in this proximate location. Then you have the lower density T-4 areas that are primarily residential in this location, and then your T-1 areas along the stream corridor. Staff did comment that there's a follow-up request from staff to reconsider the transect zone in this location. This area is right along the main primary street yet it's zoned T-1 so nothing could occur there and there likely could be some potential for some commercial development in this location. There are no sensitive resources in that area and request that the applicant consider expanding the T-6 to include this location. The general development plan, as I mentioned, does include the existing conditions. It highlights where the steep slopes are located on the site, where the floodplain and wetlands are all located, it does provide a more detailed layout and then provides more information on where open spaces will be proposed, the utilities plan, how utilities would occur through the site, the transportation network and some of the stormwater management details. Land uses on the general development plan show 174,000 square feet of non-residential uses, most of them over to the western side of the site near Route 1. It does show up to 598 dwelling units with a mix of multi-family townhouse, single-family and village homes. This is the general development plan...

Ms. Kirkman: Excuse me, Mr. Chair?

Mr. Howard: Ms. Kirkman?

Ms. Kirkman: What... could you go back to the previous slide? What is a village house?

Mr. Zuraf: That is a smaller layout; it's a detached house that is just a smaller... it's on a smaller footprint.

Ms. Kirkman: Do we have a definition of that in our Zoning Ordinance?

Mr. Zuraf: I believe we do.

Ms. Kirkman: Do we?

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Mr. Harvey: Yes we do.

Ms. Kirkman: Okay, thank you.

Mr. Zuraf: So here is the layout of the site on the general development plan highlighting the primary street through the site; it's called Clift Drive on this plan. And then you have your commercial area along Route 1. Then you have some commercial uses along this drive; a daycare facility, a community center. And then some higher density residential kind of centered in the residential area, closer proximity to the commercial then some of the lower density single-family detached units that extend out from the center.

Ms. Kirkman: Mr. Zuraf, Clift Drive... how many lanes is that?

Mr. Zuraf: It would be four lanes.

Ms. Kirkman: Four lanes; and it goes right through the CRPA?

Mr. Zuraf: Yes it does.

Ms. Kirkman: Will they need a variance or some kind of permit for that?

Mr. Zuraf: I don't believe that's necessary when it's for a road to... and when it bisects the road at a 90 degree angle.

Ms. Kirkman: Okay, thank you.

Mr. Zuraf: They will have to probably to major water quality... there may be some water quality impact assessment review required on that though. This is just one page out of the neighborhood design standards. Just to kind of highlight, this page identifies the pedestrian sheds, how they cover the site, and describes in a little more detail the civic uses that those pedestrian sheds are based on. The applicant has included several proffers; they would require the development of the site in accordance with the regulating plan as provided. They would establish a maximum number of residential dwelling units at 598. The minimum densities of the different residential unit types would be consistent with the recommendations of the Urban Development Area here in our County Comprehensive Plan. Those recommended densities are 12 units per acre for multi-family units, six units per acre for townhomes, and four units per acre for single-family detached homes. There would be a requirement for a mix of three dwelling unit types in the T-4 zone, those being multi-family townhouse and single-family units. There would establish a maximum of 174,000 square feet of commercial development on the site. There would be some phasing written in the proffers that there would be no more than 200 residential units constructed per year. Also, specific transportation improvements are provided by the applicant that are consistent with the Traffic Impact Assessment which I'll get into in a moment. Also, the applicant is proposing the dedication of 262 acres of land to the County for several public uses, and also the construction of 15 recreational fields. I'll get into the specifics of that as well. Also, the proffer will relocate the planned Dominion substation from the current site that is owned by Dominion and part of this application to a point further to the north and I'll highlight that shift in a moment. Also, they would construct several private recreational amenities that serve as the civic uses on the site. Regarding archaeological resources, there's a proffer to avoid disturbance or require a Phase 3 study if recommended by the Phase 2 survey; which it is recommended for one of the archaeological sites and you did receive the Phase 2 archaeological survey

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with the package. They would also display artifacts and provide interpretive signage on the historical resources. They also would, through the proffers, utilize and enhance environmental protection methods, prepare a water study to identify the improvements that would be needed, and allow development without offsite infrastructure for water and sewer provided capacity is available for fire flow.

Ms. Kirkman: Excuse me Mr. Zuraf? Could you clarify what is meant by prepare a water study to identify the improvements needed?

Mr. Zuraf: Their proffer is to... they would evaluate the current water system and the pressures that are out in the water lines now and determine based on what the need will be, based on that study determine if additional improvements would be needed to maintain adequate pressure for fire flow to fire hydrants and meeting certain standards that are required under our Utilities Ordinance.

Ms. Kirkman: Is that because part of this... I seem to remember and I think maybe Mr. Fields was on the Board when this went through... they had to get some special permit because they needed... was that they don't have the gravity flow from the pressure?

Mr. Zuraf: Well, and I'll get to... the Utilities Department actually has some additional comments and actually requested some additional improvements beyond just the water study.

Ms. Kirkman: Okay. Because there is a pressure problem already known out there?

Mr. Zuraf: I'm not certain if there's a pressure problem or not but I know that some additional improvements are being requested from Utilities.

Ms. Kirkman: Okay, thank you.

Mr. Zuraf: Regarding transportation, a Transportation Impact Assessment has been submitted with this request. The general overall impact of this proposal would generate, from the site, over 19,000 vehicle trips per day. At full build-out, that equates to over 2,000 vehicle trips per hour. At the peak p.m. hour was the highest peak hour and that, of course, requires a Traffic Impact Assessment. That was submitted and has been adjusted and amended as the application has been amended through this process. And you received the latest addendum to that impact assessment in your package. And this impact assessment does show the impact on several intersections on and off site. Looking at the layout of the site, the intersections that were looked at in the study include to the north the intersection of Route 1 with Eskimo Hill Road. As you head down Route 1, Route 1 with Clift Drive, the commercial entrance off of Clift Drive and then further down Route 1 the intersection of Centreport Parkway, the access to Centreport Parkway off of Route 1. It also looked at that intersection. I did identify this intersection of Clift Drive and Eskimo Hill Road; this actually I don't believe was identified and evaluated in the report so that may need to be adjusted and looked at further. The study does identify that with the improvements there would be an impact on these four intersections, and the improvements that are recommended to mitigate the impacts at the Eskimo Hill intersection include the construction of a dedicated right turn lane on Eskimo Hill Road as you approach Route 1. At the intersection of Route 1 with the site at Clift Drive, this was not shown to necessarily have a negative level of service but the applicant is still proffering several improvements; full dedicated left and right turn lanes as you head north and south approaching this intersection, a traffic signal when warranted would be constructed. And then as you go into the site, Clift Drive at the commercial access there would be a traffic signal when warranted. And then dedicated left turn lanes on Clift Drive as you

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approach the light eastbound. And then two dedicated lanes from the commercial site... on the commercial site heading to Clift Drive, and then at Centreport Parkway with Route 1 there'd be a second southbound left turn lane constructed on Route 1. It's actually already kind of constructed, it's just marked... there's yellow striping so that would just need to be restriped. And then a second approach lane on Centreport Parkway as you approach Route 1, that was another improvement. And staff would also note that in this alignment of Clift Drive to Route 1, there could potentially be an issue with the current access of State Shop Road with Route 1; there may be some need to redesign State Shop Road to deal with the proximity of the two intersections there.

Ms. Kirkman: Excuse me Mr. Zuraf, before you move away from the Traffic Impact Analysis itself, we don't seem to have gotten the original Traffic Impact Analysis in our packets. Can we get that?

Mr. Zuraf: I can provide that.

Ms. Kirkman: And then my question is that analysis was actually done a number of years ago in 2008. Has there been a completely new Traffic Impact Analysis done?

Mr. Zuraf: This addendum I believe covers all the... because the original request covered greater area and had different intersections and I think more units, so this basically had to be redone...

Mr. Howard: Significantly more units according to what you said earlier, right? Significantly more units.

Mr. Zuraf: Yeah, yeah, there were more units and so the old Traffic Impact Assessment I believe doesn't necessarily really apply anymore. So this new addendum is the latest and greatest.

Ms. Kirkman: And this addendum is what was submitted to VDOT for the Chapter 527 review?

Mr. Zuraf: They've been receiving all the addendums as... they received the original one and then these adjustments as they went along.

Ms. Kirkman: But, I don't... was the original one conducted in compliance with all of the 527 reviews because I thought that was actually prior to that implementation?

Mr. Zuraf: I'd have to check on that, when that actually went to VDOT. I believe all the latest versions would have been reviewed under their guidelines.

Ms. Kirkman: Because this is fairly thin compared to what we see from most TIAs for Chapter 527s, that's why I'm trying to understand.

Mr. Zuraf: Well, the original...

Ms. Kirkman: Yeah, I know what the original looks like.

Mr. Zuraf: ... TIA was about as thin as that.

Ms. Kirkman: Really?

Mr. Zuraf: Yes. And I believe it was accepted. But we can provide a copy of that to you.

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Ms. Kirkman: Yes, and if we can get some confirmation from VDOT that that original was conducted in compliance with the Chapter 527 regulations.

Mr. Howard: Do you have any comments from VDOT on what's been proposed?

Mr. Zuraf: Yeah, I believe that's in your package, the VDOT comments.

Mr. Howard: And VDOT signed off on it, if I'm correct?

Mr. Zuraf: Yes.

Mr. Howard: Okay. Alright, thank you.

Mr. Zuraf: Computer please. There were some other transportation proffers included with the package. They would complete Clift Drive all the way through from Route 1 to Eskimo Hill Road. It may not be done initially so they are limiting... there may be a case where Clift Drive gets built off of Eskimo Hill Road so there's a limit of no more than 141 residential units that would be allowed to be constructed off of Eskimo Hill Road before... once they get to 142 units, Clift Drive has to connect through to provide access to Route 1. Also they'd provide a slug commuter area in a central location on the site, and also provide inter-parcel connection to the site to the south that has a preliminary approval. We did include VDOT comments; they found the study acceptable. And within that they did also include several other comments that a lot of it got to some of the construction details, things that would be more of a heads-up and things that are going to have to be addressed as the, you know, assuming the site moves forward. Some staff comments that we have, the proffers do not include right-of-way dedication, so we're recommending that the proffers include right-of-way dedication specifically along Route 1 which would call for 80 feet from centerline. And then also staff is recommending the addition of inter-parcel connections to the north because to the north of this site is the continuation of the Urban Development Area in this location. And the idea would be to get a good network, a street network, that would keep cars off of Route 1 or Eskimo Hill Road. Also, staff notes that some of the details of the Route 1/Eskimo Hill improvement leaves it where there's a certain kind of time limit where if the right-of-way isn't acquired by a certain time then the improvement... the requirement to do the improvement would eventually go away. So staff is suggesting maybe some monetary consideration be placed there to ensure that, at some point, the improvement could occur and not just go away.

Ms. Kirkman: Mr. Zuraf, how... was there some basis for the number of 141 being used? So, has there been a determination that Eskimo Hill Road, for instance, can handle the traffic? You know, if you figure 10 trips per day, you know, roughly 1,400 additional trips per day?

Mr. Zuraf: I would have to defer that to the applicant or the traffic engineer. Initially, it was higher and we did note that and that number was lowered down to 141, but I never... I don't recall the basis.

Ms. Kirkman: You don't know what the basis... okay.

Mr. Howard: Continue your presentation Mr. Zuraf.

Mr. Zuraf: This slide depicts the land dedication plat that was referenced before. The plat shows the 262 acres that are proposed to be dedicated. Again, this is the site subject to rezoning. The area of dedication would be generally from this point, around, up to the north. This is the 262 acres. This is

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the portion of the site that, the residue portion that is going to remain A-1, not subject to any rezoning action or proffers. The Dominion property is in this location; it's the site of a potential future electric transfer station. The proffer would relocate that site up to the north to this location and then this land would then just become part of the 262 acres and be dedicated to the County. This part also of the 262 acres, as I mentioned, 220 acres would be for the construction of 15 soccer fields which the applicant is proffering. The five acres of the area would be for a commuter lot which I'll highlight in a minute; 20 acres would also be dedicated for an animal control facility or other use that the County may deem necessary on that site. And on this, staff did receive a comment and request from the School Board for 20 acres to be specifically dedicated for a school site in this area.

Mr. Hirons: Mr. Chairman, if I could ask a question? Mr. Zuraf, did they identify anywhere that potential 20 acres for a school site?

Mr. Zuraf: Not from the School Board. I think the applicant might have some options that they might show.

Mr. Hirons: Okay. And the second question is, we have depictions in our handouts here and I don't know if the next slide might have where like the soccer fields are proposed, but just to the... I guess it would be east... to the right, is that where the detention center property begins?

Mr. Zuraf: The detention center property is right down where the cursor is.

Mr. Hirons: Okay.

Ms. Kirkman: Mr. Zuraf? Could you...

Mr. Howard: Could we let staff finish what is a lot of questions to be asked by a lot of people and if we could just write them down as we go, it might help us move a little bit more quicker... if my colleagues wouldn't mind. Can you just make a note of that Ms. Kirkman and we can...?

Ms. Kirkman: Well, we'll ask him now or ask him later...

Mr. Howard: Why don't we ask him later; the Chair is not recognizing Ms. Kirkman right now. Go ahead Mr. Zuraf.

Mr. Zuraf: This image identifies the specific soccer field layout that is included in the application. As you can see, it's to the east of the proposed site of the development. It would be... this is Clift Drive where it meets Eskimo Hill Road which wraps around and heads to the east. The proposal would extend Clift Drive across Eskimo Hill Road into the soccer field complex. And along the way you'd have the 500 space commuter parking lot, that's part of the proffers, in this area partially underneath the power line easement and on the way to the soccer complex. This image identifies the issue of noise impacts that may occur on this site. It identifies airport operation zones; those are highlighted in the blue. And then there is a noise impact area in the brown. And this is with a previous layout and previous iteration of the proposal. Originally this brown area highlights a point of 55 decibels, so it's kind of highlighted as an area where there might be a little more noise impact. And since, the application has adjusted the application to remove these residential areas out of this noise impact area, out of the area identified by the brown line. So despite that now all the development is up in this area, it is still within an airport operation zone; that is zone 6. It's called a traffic pattern zone. It's a lower end of the impact areas; within this impact area residential and most non-residential uses are allowed.



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It does suggest avoiding children's schools and large daycare areas, just to point that out. But these are the potential airport and noise impacts as it relates to the site. Looking at how this site relates to the Comprehensive Plan, I've highlighted the site within the Comprehensive Plan in the hatched area. This is within the newly adopted Eskimo Hill Urban Development Area and the Eskimo Hill Urban Development Area covers 200 acres. It, in total, recommends 879 dwelling units and 580,000 square feet of commercial. This proposal is at 598 for dwelling units and 174, so it is within the recommended thresholds that are in this Urban Development Area. As a result, the remaining area covers 59 acres to the north. That area would have to absorb the remaining development of 281 dwelling units and 414,000 square feet of commercial, so it would be a higher mix of commercial that would have to occur up in the rest of that site in the rest of that Urban Development Area. The Urban Development Area provides some narrative of the type of development that's envisioned. It recommends a town center with a mix of commercial with condominiums and townhomes. In this proposal, your commercial area is separated from the residential areas by the stream corridor, so the remaining area to the north would need to incorporate that mixed use town center that's envisioned in the Eskimo Hill plan. With public facilities, a 500 space parking lot is recommended at the Brooke VRE. As I've noted, the proposal has a 500 space commuter lot that is onsite. The improvements are recommended to Eskimo Hill Road from Route 1 to Brooke Road. This proposal has intersection improvements along Eskimo Hill Road at Clift Drive and Route 1, staff does note that the construction of Clift Drive through to the park site would provide a new road access directly to the park and would allow the alternative for vehicles to avoid Eskimo Hill Road if they're going to the park, but not necessarily the VRE. Also, it recommends the dedication of 250 acres for active park land with the construction of 15 playing fields. The proposal includes 220 acres for park land with 15 fields. The total dedication is greater than 250. And then also the construction of an animal control facility; this proposal includes the dedication of land, 20 acres for this purpose, or another use. So it doesn't proffer the actual construction of the facility. The application also does include a fiscal impact study and it goes beyond just the fiscal study; it's the economic fiscal and infrastructure impact study. It's included with the project. In the findings of the study, it supports the... the study finds that the project supports a creation of 151 new jobs with related personal earnings of \$4.2 million and that fiscal benefit of \$1.1 million annually and capital contributions, capital improvements contributions of over \$20 million that relates to the proffered improvements which relates to the monetary proffers of \$72,000 over the suggested monetary proffers that the County guidelines state. Staff comments regarding the fiscal impact study note that the proffer guidelines that the County has breaks out the specific amounts by residential type and it allocates certain amounts to different types of facilities like schools, parks and recreation, transportation, libraries and such. So in this case not all facility types would be mitigated; specifically, schools, libraries and fire and rescue to name a few, because this application does not... they're not specific monetary proffers that go along with the guidelines that we have. Staff also notes that within some of the details of the report, the estimated dwelling unit values may be overstated. It identifies an average single-family home price of \$457,000 down to \$300,000 for a multi-family unit; staff questions whether that might be inflated. The study also assumes full build-out of commercial and residential development. The commercial development is the aspect of the project that will really offset some of the monetary impacts, fiscal impacts, on the County and there's no necessary proffers that require a phasing of the commercial with the residential. And phasing of the commercial with the residential helps ensure some of the financial balance that is found in this report. Looking at the findings of the proposal, the positive aspects; the proffers would mitigate the impacts on the transportation network and adjacent properties. The commercial aspect of the project would offset financial burden. It's in conformance with the Eskimo Hill Urban Development Area designation. The land dedication of public improvements would mitigate the park and recreation demands. And this use does promote the use of alternative modes of transportation with the commuter parking lot and the slug lanes proposed, and the overall mix of uses proposed in this development may minimize

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traffic beyond the site. The negative aspect is not in conformance with the Transportation Plan specifically as it relates to the dedication of right-of-way. Certain transportation improvements are not fully guaranteed; specifically, Eskimo Hill Road and Route 1 and the impacts on the utilities are not fully mitigated. The Utility Department provided comments to the County and the applicant. They did list and request specific capital needs and identify specific projects that were requested. And with fire and rescue, they also provided some suggestions for proffers; specifically, the request for automatic sprinklers, traffic signal pre-emption devices for emergency equipment and then also a stand-pipe system in buildings greater than two stories. That's for enhanced fire protection. Staff at this point cannot support the request for reclassification until several of the issues that were discussed and highlighted are addressed and request the Planning Commission consider those issues as you consider this proposal. Now I'll take any additional questions.

Mr. Howard: Right. Mr. Fields, we'll start down at your end.

Mr. Fields: Actually, is the preliminary, the original preliminary subdivision plan on the whole parcel, is that still active and vested?

Mr. Zuraf: As far as I know, it's still active, yes.

Mr. Fields: And how many units was that?

Mr. Zuraf: It was 145.

Mr. Fields: On three acre lots?

Mr. Zuraf: Excuse me?

Mr. Fields: That's pretty good. That's better than 4.5 so that's a pretty high yield there. It's about 500 acres?

Mr. Zuraf: It was 480... 479 acres.

Mr. Fields: Four hundred seventy-nine acres... 140...? How many did you say?

Mr. Zuraf: A hundred forty-five lots.

Mr. Fields: A hundred forty-five lots, okay.

Ms. Kirkman: Mr. Fields? May I just ask a clarifying question regarding that? Was that preliminary plan approved prior or after the drainfields ordinance?

Mr. Zuraf: I'll defer to Mr. Harvey.

Mr. Harvey: Mr. Chairman, Ms. Kirkman, my recollection is a number of those lots are on public water and sewer. Some are on water and septic. I don't recall if it was before the new standards for septic systems.

Ms. Kirkman: Okay, thank you.

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Mr. Howard: Mr. Fields, continue please.

Mr. Fields: That's really all I have at this moment.

Mr. Howard: Okay, thank you. Mrs. Hazard?

Mrs. Hazard: I guess I was looking over... I know there's been some interest in the soccer fields... I was just looking over how it was phased. And it says that some of the things will be done in a second phase, some of the amenities that were needed. And I guess my only other question is just confirming that the parking lot that is proposed... it does appear to be in the easement of the right-of-way for the power line easement.

Mr. Zuraf: It is.

Mrs. Hazard: And, of course, we'll have to get all the waivers there but I will be looking at that closely to make sure there isn't going to be... I know that the joint applicant is Dominion Power so they know it's there, but we just always need to make sure that that's protected.

Mr. Howard: Thank you. Mr. Rhodes?

Mr. Rhodes: Yes, Mr. Zuraf, with the soccer fields, the field access road, the one further to the bottom of the diagram, when is that to be built? I see all the phasing of the seven phases of the parking associated with the fields and the number of fields, but do you know when that field access road from the bottom is to be developed?

Mr. Zuraf: I'm not certain if that is... that's not included within the proffer, as far as I'm aware.

Mr. Rhodes: Yeah, I didn't see reference to it in the proffer. Okay, I'll ask the applicant. Thank you, Mr. Zuraf. Thank you Mr. Chairman.

Mr. Howard: Thank you. Mr. Zuraf, I have a few and then I'll continue to my right. On page 7 of the proffers, and I think Mrs. Hazard was mentioning this, the phases that are referenced... is there a schedule for those phases? So what is either the time or what is the... included in those phases? It may be in here and I just didn't see it.

Mr. Zuraf: That's within the image I included with the soccer fields...

Mr. Howard: They were all labeled?

Mr. Zuraf: Yes, they're within phases.

Mr. Howard: Okay. And then that same parking lot discussion... that's the commuter lot but that's also being proposed... it looked like that's being proposed to be used for the soccer fields as well.

Mr. Zuraf: They may have some dual benefit...

Mr. Howard: But that's not the intent?

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Mr. Zuraf: I think the main intent is for commuter parking but, if there's overflow, I'm sure that could have some...

Mr. Howard: Okay. And then anywhere in this development, was there any discussion about utilizing the FRED bus system that we currently have, whether there would be bus stations throughout the development at any point?

Mr. Zuraf: Not of late; there may have been discussion in the past but there's nothing within this iteration.

Mr. Howard: Okay, because I didn't see that noted anywhere. And has the FAA had time to review any of this plan at all in regards to the airport?

Mr. Zuraf: We provided an earlier version and never received any comments on that.

Mr. Howard: No feedback?

Mr. Zuraf: No.

Mr. Howard: So, could we just maybe initiate a second discussion on that?

Mr. Zuraf: And on that, you mean the regional airport?

Mr. Howard: Correct. The right-of-way that you mentioned, the 80 foot from the centerline, did you have any discussions with the applicant? Are they willing to include that at some point?

Mr. Zuraf: I would have to defer that to the applicant.

Mr. Howard: Okay. I was just curious if you had any discussions. And the comment about the dwelling unit values being inflated, what's your thoughts on how that's relevant in this case? Is that because of the proffer valuation? Or, what is the...

Mr. Zuraf: Because that could affect then what the estimation of how much money would be coming into the County.

Mr. Howard: Okay. So that would be their fiscal impact analysis...

Mr. Zuraf: Yes.

Mr. Howard: ... that they conducted; okay. Mr. Mitchell?

Mr. Mitchell: Mr. Chairman, most of my questions have been answered.

Mr. Howard: Ms. Kirkman?

Ms. Kirkman: Thank you Mr. Chair. Um... turning to page 13 of the staff report, it states "the applicant has not included any monetary proffers with their request". Does that mean that the County will not receive a single penny in cash to offset infrastructure costs that are... such as schools and roads that are due to this project?

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Mr. Zuraf: Correct, unless they're something within the... it's not spelled out like it typically is where it's for schools and parks. Unless it's related to any specific single issue in here, I don't believe there are specific cash contributions.

Ms. Kirkman: So, the County has cash proffer guidelines based on the... each dwelling unit type and I think they're up to around, was it 32-40,000, something like that for... what is it Mr. Harvey for single-family dwellings?

Mr. Zuraf: It's 40,000.

Ms. Kirkman: Forty thousand? So, we don't have a single cash proffer for any type dwelling unit?

Mr. Zuraf: Correct.

Ms. Kirkman: Alright. Have we ever had a rezoning application come in before that did not offer a single penny in cash proffers for residential units?

Mr. Zuraf: I'm sure we have, back before we...

Mr. Fields: (Inaudible – microphone not on).

Ms. Kirkman: But I mean in recent history since the County established proffer guidelines and actually began collecting them. Mr. Harvey, are you...?

Mr. Harvey: Ms. Kirkman, Mr. Chairman, I'm not aware of any in recent years. There have been very few residential rezonings in recent years. I don't believe anybody has had proffer commitments to the current guidelines that we have today.

Ms. Kirkman: And this project has 598 residential units. Where is, in the impact analysis, does it demonstrate that those 598 residential units generate a need for 15 soccer fields?

Mr. Zuraf: It's not going to mention that. I believe that's going to... this is serving more than the need of this neighborhood. It's going to have more of a regional impact.

Ms. Kirkman: So, the soccer fields are unrelated to what's generated by the development itself.

Mr. Zuraf: I think there's indirect... you know, they're still going to benefit the 598 units but it's definitely well beyond what the need for the 598 units would require.

Ms. Kirkman: And similarly, is there any analysis that indicates this project drives the need... with 598 residential units creates a need for a 500 parking space commuter lot?

Mr. Zuraf: This would not drive that need for that many parking spaces. This is in relation to... I guess the applicant has included that because that has been what's been recommended within the Eskimo Hill Urban Development Area recommendations in the Comprehensive Plan.

Ms. Kirkman: And similarly, is there something about these 598 residential units that's going to generate the need for an animal control facility?

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Mr. Zuraf: No.

Ms. Kirkman: Okay. You... the staff report states that the proffers do not mitigate the infrastructure impacts in a number of areas, but in your presentation you didn't go over those specifically. Could you go over how the proffers do not mitigate, for instance, the needs put on schools?

Mr. Zuraf: Well, I think I might have mentioned that within... there are the monetary proffer guidelines and within those and when that number like for single-family detached is \$40,000 and of that our proffer guidelines breaks it out into the different types of public facilities, those being schools, transportation, parks and recreation, libraries, fire and rescue. And so those uses such as schools, fire and rescue and libraries, those aren't directly mitigated here because there's no I guess improvement being provided and offered through the proffers. The parks and recreation is because you have the 15 soccer fields, so that would more than mitigate that recommended need. But since there are no proffers or other type of offsets relating to schools or fire and rescue, then those specific types of facilities are not addressed.

Ms. Kirkman: So, there's no proffer at all related to schools or fire and rescue?

Mr. Zuraf: Correct.

Ms. Kirkman: So there's no mitigation of those impacts at all.

Mr. Zuraf: Correct.

Ms. Kirkman: And regarding the traffic improvements, do they proffer all the improvements that are indicated by the Traffic Impact Analysis?

Mr. Zuraf: Yes.

Ms. Kirkman: And... but you all state that there's some concerns about... and what are those concerns specifically?

Mr. Zuraf: The detail of the improvement at Eskimo Hill Road and Route 1, the specifics of the language. Because that is an offsite improvement and it's in an area where the applicant doesn't control the... you know, where additional right-of-way would be needed. And it's kind of worded where the phasing or the improvement would actually go away... the requirement to do the improvement would go away after a certain number of years.

Ms. Kirkman: Alright. Okay, so it's more if there were something in there that guaranteed the payment regardless of the time... so if the time limit were removed, for instance.

Mr. Zuraf: Right, right.

Ms. Kirkman: Okay. And then on utilities, I'm reading through their recommendations and some of these seem pretty basic. I want to see if their proffers were amended to address them. It says the sanitary sewers shall be by gravity sewer only. No pumping station or low pressure sewer shall be used. Were the proffers amended to include that?

Mr. Zuraf: No.

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Ms. Kirkman: What about identifying the capital improvements needed to achieve domestic water service and fire flow goals?

Mr. Zuraf: No.

Ms. Kirkman: Were any of the utility recommendations incorporated into the proffers?

Mr. Zuraf: Not that I'm aware of.

Ms. Kirkman: Okay, thank you.

Mr. Howard: Thank you. Mr. Hirons?

Mr. Hirons: Mr. Zuraf, the commuter parking lot speaks to on page 12 of our package, the commuter spaces are supposed to benefit Brooke VRE Station. It references the plan recommends a 500 space parking lot at Brooke VRE but this proposal has 500 spaces basically onsite or in the dedicated land. But there's nothing that speaks to, as the Chairman had indicated, perhaps a shuttle bus or FRED bus route to take people either to Brooke or more logically would be Leeland Station if the commuter lot were to stay there. There's nothing that references that, correct?

Mr. Zuraf: No, no shuttle buses are being offered.

Mr. Hirons: Back to my question about the soccer fields and its proximity to the detention center, is there any buffering between the soccer fields and the detention center proposed?

Mr. Zuraf: There may be some general buffering required through the zoning ordinance, but I would have to check the zoning ordinance on that. But no enhanced buffering is proposed if that's your question.

Mr. Hirons: Yes. And then the Fire Marshall's recommendation or request was for automatic sprinklers in the residential units. Is that required at all in our building code or fire code anywhere that new homes are required to have sprinklers?

Mr. Zuraf: Maybe in apartments but not in like single-family detached homes, I wouldn't think so. I may defer to Mr. Harvey on that though.

Mr. Harvey: Mr. Chairman, Mr. Hirons, it's my understanding that multi-family structures, depending upon type of construction, would require sprinklers; however, single-family detached and townhomes do not currently.

Mr. Howard: So in all likelihood they're referring to the multi-family?

Mr. Zuraf: Well, their request is really referring to the single-family detached and townhomes, because if it's required in the multi-family then there wouldn't be a need for the proffer.

Mr. Howard: Have we ever asked somebody to put a fire suppression system in their home before?

Mr. Zuraf: That's been requested in the past.

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Mr. Howard: Okay. Interesting.

Mr. Hirons: I think you answered the Chairman's question also about the airport, rather the FAA. I think the more appropriate folks to ask is the Airport Authority? Okay. And they have not reviewed this at all currently, correct?

Mr. Zuraf: They've received it. I just have to touch base with them to see if they had any comments on this.

Mr. Hirons: Okay. That's all I had, thank you.

Mr. Howard: Okay.

Ms. Kirkman: I think, Mr. Zuraf or Mr. Harvey...

Mr. Howard: Ms. Kirkman, hold on please. Are there any other question from any other Commissioners? Okay, we have to bring the applicant up also. Ms. Kirkman?

Ms. Kirkman: Yes, just on the fire suppression, if I seem to remember the history on that correctly, I think that's been recommended by public safety with the denser residential developments, but not with like the one house per three acres. Is that correct?

Mr. Harvey: In the case of a one house per three acres, that's a by-right situation so the sprinkler system wouldn't be subject to a proffer discussion. Mainly it's been in the context of more dense development where you have single-family homes on small lots and townhomes that's been mainly the focus of discussion.

Mr. Howard: Okay. Can we hear from the applicant now? Thank you Mr. Zuraf.

Mr. Leming: Good evening Mr. Chairman, members of the Commission; my name is Clark Leming. I'm here on behalf of the applicant. We appreciate the opportunity to be with you this evening. We anticipate that we're going to be answering a lot of questions and that this process is going to go on for a period of time with the date you mentioned, Mr. Howard, sometime in August.

Mr. Howard: August 16<sup>th</sup> to be exact.

Mr. Leming: With that in mind, what I'm going to ask you to do at least for a few minutes, is to take a step back and I want to share some general comments with you and then I'd like to have you hear from Dr. Bellas for just a moment. He's the one that prepared the economic impact analysis that we've made some... staff has made to elusion to and there've been some questions about and then we can answer any specific questions. We've made notes of all of your questions and we'll try to get to each of them. So, if you don't mind, I'll wax or drone on depending on your perspective for just a few moments here.

Mr. Howard: Computer please?

Mr. Leming: First slide please. I thought it might be useful to step back a few years. Mike had a zoning history on the screen. There have been a number of development proposals for this particular property; some included some of the adjacent parcels but the center piece has always been this same



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parcel that is subject to this application. The first one was submitted in 2006. It was in preparation some time prior to that. Some of you were here and sat and considered that, Mr. Fields. This was a proposal for a PD Development. It consisted of 1,645 units and I think you can get some sense for the density that was anticipated. You'll note that the density toward the eastern portion of the property where the playing fields are now was actually proposed as a retirement community. Next slide please. That application was amended in 2007. In 2007, the County adopted the TND Ordinance and the application was revised. The PD application was dropped and it was revised as a TND. This was the first actual TND application. There have been two; the other one was Aquia Town Center which was adopted by the Board in early 2008. But this was the first full-fledged residential TND application. But you can see the density overall actually went up to 1,740 units. This included a school site, there are some playing fields shown in the bottom left-hand corner which would be south/southwest. There was also an aquatic center that was proposed. This got through the Planning Commission and was pending at the Board of Supervisors as the representative for the applicant, Mr. Gollahon at that time, believed that we would have received a positive vote from the Board of Supervisors. Mr. Gollahon withdrew the application because of what happened to the real estate market about that same point in time, and the application was terminated. Next slide please. In 2009, D. R. Horton became the owner of the property and a revised application was submitted. This was a... actually it was originally proposed as a PD proposal again but then was reorganized as a TND. The first application was for 664 units. Now this was prior to any consideration of a UDA for this particular property. Next slide please. This was the... the next iteration of that, this was our first effort to be responsive to what we saw coming. In the proposed... for the proposed UDA, you'll note that there is still some residential toward the bottom; it will be the southern portion of the property that was in the flight path. We had worked out avigation easements at a prior time for those units but all of those have been since removed and that brings us to the current which is the next slide which is what is before you this evening. I show you this because I think the history is instructive in demonstrating the effect of the UDA requirements and the development proposals that have followed on the UDA. You all have studied UDA, I know, probably ad nauseam; this may not even be the best night to talk about UDAs for the Commission. But when the UDAs were first proposed, there was great fanfare, great boasts made by representatives, leaders of the General Assembly, about this being the most significant change to the Commonwealth's approach to land use since the advent of zoning. It may not be that, but the UDAs do offer some significant opportunities to approach land use in a fundamentally different manner. The General Assembly has defined UDA as a functional fiscally sustainable system of interconnected neighborhoods and associated commercial and employment uses that meets broad market demand and retains its value over time. These are lofty goals but credit the General Assembly with at least recognizing that we had a land use problem and that something needed to be done to stop sprawl and proposing something requiring localities to come up with a different approach. The Board of Supervisors, of course in Stafford, adopted the UDAs in the Comprehensive Plan, six of them in December of 2010. The... let's go to the next slide. I'm sorry, this is just a colorized version of our present one so let's go to the next slide. The UDA for Eskimo Hill is significant and I want to read the language from the Comp Plan regarding this UDA. And I'm starting at the very end of the narrative for this. This states, as previously mentioned in the UDA summary section entitled Public Infrastructure and Services, these new infrastructure requirements, and they've just spelled them out in the narrative proceeding, the new infrastructure requirements are the result of the new development, its density and location, and therefore will be the responsibility of the developer or developers of Eskimo Hill UDA. Now, there are four specific things spelled out in the narrative. They are the playing fields, the commuter parking, the road transportation requirements... Eskimo Hill specifically... and the animal shelter. Those are the things that are actually spelled out in the narrative that are made reference to here. So that affects a good bit of the planning that has gone into this application. Mike, could I have the next slide please? This shows... the purple area is the entire UDA. You've already

seen a slide to this to some extent. The application before you is on about 75% of the overall UDA. And could I see that next slide please? And Mike has summarized some of this but we put it all in one slide here and we converted it all to percentages to show you where we stack up in trying to meet the objectives of the UDA here. The land acreage has already been discussed. We represent 71% of that; 67% of the overall dwelling units that are assigned to this UDA, 30% of the commercial area, we're doing 100% of the soccer fields... we have the land for that... that are required under the language of the UDA, the parking spaces we're providing 100% of those and let me just make a brief side note on that. I agree with the comment about some kind of shuttle or means to get to the commuter rail station that I think is going to be something that's helpful here. The prior iterations of development on this property always did include something like that, but this is the land that we control. We don't control land at Brooke Station. I'm not sure there is this kind of land existing at Brooke Station for this sort of parking, so that's why it's shown where it is. The animal shelter, we're providing the land, the construction of the shelter, the number we have here is what's shown on your CIP. And Eskimo Hill, we're providing the intersection improvements at Route 1. And the issues that have come up regarding that I think we can pretty easily work through. Now, the general comments I'd like to make about the UDAs, this is a different application than we've seen. This is the first application, the first UDA application to come in regionally. There's one that we're aware of within the state in New Kent County, and like this one, this was a pending application that was converted to a UDA and was adopted by that county last year. That's the only other UDA zoning application that has been adopted within the state that we're aware of. Obviously there are a number of counties that have adopted the UDAs within their Comprehensive Plan. There are a couple of fundamental issues here that I think probably surpass all of the specific questions that have come up. One has to do with the text amendment that has been eluded to. The text amendment is important in this case, and probably as I indicated when we met with you on that subject, probably is going to be the same for all of your UDAs. It's important if you're going to meet the density requirements of the UDA statute. The density requirements are not such that we can possibly meet them within the land bay in the UDA. There's just simply not enough buildable land in order to accomplish that, and I think that will be the case pretty much across the board. So, that's why we've asked for the text amendment. The justification for it we've talked about previously. I would like to... could we go to the next slide please, Mike? And the next one. Oh, I'm sorry, that's it; stay right there. Yes. The red fingers are the ones... these are the ones we've shown you before. This is the impact of the slope next to the slope amendment that was adopted to the TND Ordinance late in 2007 on this site. Now we can reconfigure; we can still probably to a TND. What we can't do is to meet the density requirements, the statutory density requirements for the UDA. So that is the basis for the request. That is one significant issue I think that's going to be an issue for any UDA application that comes before you. Let's see... could I have... well hold it right there. The other issue that I think is important, and there's been discussion about this already, concerns the approach to proffers and the proffer guidelines that presently exist. Right from the outset, let me make as clear as I possibly can on behalf of this applicant and any other UDA applicant. It is not going to be possible to meet the infrastructure requirements contained within the UDA narrative and pay cash proffers. There's simply... it simply does not make for a viable financial development. So, what we have done is to provide an economic analysis and we've hired a very well qualified person to do that to demonstrate a couple of things; one, the overall financial impact of the development which may surprise some of you, and also we have, in a completely different analysis stood up the value of our capital improvements, the value of those capital improvements versus the overall cash proffers. Now, there are some things we can do to try to be responsive to individual proffer categories. I note that this is not; the infrastructure requirements under the narrative is not. For instance, we could go ahead and dedicate a school site and count that as our education proffer. We can do that; it's a paper exercise. The land is being given to the County, some 262 acres. If the County wants to designate a certain portion of that as a school site, it certainly can.

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And we have some... let's go to the next slide now please, Mike. There are a couple of areas that certainly could be used for a 20 acre school site and we don't mind dedicating them but the understanding we had is that the land would come to the County and the County would decide what to do with it, but for the playing fields that were spelled out in the narrative for the UDA. The... I don't believe that there is any formula by which the UDA applicant can say here's how I have complied with this individual category for the proffers or this individual category. Obviously, we far exceed the parks and rec's category, but that's because that's what's requested of the applicant within the narrative. Now... generally, with regard to proffers, it's time to revisit the proffer guideline system. As Mr. Harvey indicated you don't have anybody paying current cash proffers. You don't have anybody paying current proffers because nobody can pay the current cash proffers. We've had one zoning in Stafford County that proffered them; that was on Forbes Street in 2005. That property is now the subject of a new community church because it was over-proffered and cannot be built as a residential development. The cash proffers that are coming into the County are those from older zonings in very modest amounts. I'd also point out that the proffer system requires the payments, generally requires the payments be made at building permit. There was some effort some years ago to move it up to occupancy permit; the applicants would not do that. So they come in sporadically at building permit. Maybe they can be used to retire debt service if you can predict when building permits are going to come in. I think the approach to the UDA is to have the County identify the infrastructure needs, that's the purpose of the narrative, and have the applicant actually provide it... actually do it rather than paying cash proffers. So, if this is going to work, it's going to take a fundamentally different approach. And if the County still is looking to UDA applicants to pay the traditional cash proffer guideline amounts in all of the different categories, we're not going to be able to do it. Now, what I'd like to do is to defer to Dr. Bellas because he is much more interesting than I am and I'd like for him to spend a few moments telling you about the fiscal impact analysis he has developed. For those of you that don't know Dr. Bellas, let me tell you a little bit about him. His Ph.D. in public policy, a concentration in regional economic development policy, he's worked frequently with Dr. Stephen Fuller and they are co-authors of many efforts. In fact, I think you were a student of his or something like that, weren't you?

Dr. Bellas: Yes I was.

Mr. Leming: So, we've asked him to prepare this two part analysis that I've described and I want him to tell you about it and I'll be quiet.

Dr. Bellas: Thank you. Good evening. For the record my name is Dr. Dean Bellas with Urban Analytics in Alexandria, Virginia. If we could have the first slide please, or the next slide?

Mr. Howard: Computer please?

Mr. Leming: You may have to run through a couple of transportation ones there.

Dr. Bellas: There we go; perfect. To set up the presentation for the first slide you're looking at, I want to bring your attention back to the end of President Bush's administration and the start of President Obama's administration. You'll recall during that time period that the federal government congress was enacting various pieces of legislation to start economic stimulus programs at the federal level. But what most counties don't realize or they may know but not really understand is that local county governments have the opportunity to create their own local economic stimulus packages. And these stimulus packages tend to occur much quicker in the local economy than programs that are started at the federal level. In slide number one here that we're looking at, I've conducted an economic impact

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analysis of the amount of spending that will occur to build this project. Based on the project as outlined by Mr. Leming, we've estimated that to build this project out to full build-out it will cost roughly \$135 million. This is money that will be pumped directly into Stafford County's economy. I've taken out of this analysis any money that will be spent outside the county. The impact of the local stimulus to specifically to Stafford County's economy is an additional \$62.2 million. The total economic impact is \$197 million to the County over the course of the development period. So you can see that this project will contribute a substantial amount of money to... directly into Stafford County's economy. Over the development period there will be over 1,000 jobs created. These are all jobs associated not just with the construction of the project, but jobs offsite that support this project; those jobs, whether they are retail jobs, vendors, the local lumber supply company, etcetera. Those personal earnings of those 1,000 new jobs will be \$44 million over the course of the development period. Once the project is fully built out and occupied, the residents in the 598 house and the workers in the 174,000 square feet are estimated to generate annually \$17.4 million. So, you take your disposable household income and disposable earnings from workers in the County and their contribution on a daily basis, or on an annual basis to the County, will be \$17.4 million a year. The stimulus effect is another almost \$6.2 million for a total impact of \$23.6 million; that's year in, year out. These are not short term construction job related impacts but annual spending impacts from people living in these houses. This \$23.6 million in annual spending in Stafford County will create another 151 jobs with earnings of \$4.1 million. If we could have the next slide please? The second slide here shows the fiscal impacts. So, the economic impact showed how many new jobs would be created in the local economy and what the earnings affect will be and what the multiplier effect of this construction spending will be. The fiscal impact looks at specifically at how much tax revenue and non-tax revenue that the County collects through its various revenue and fee line items in a report and it compares it to the cost providing public services. These public services, as you know, range from police and fire and ambulance, public safety to public works, public education, parks and recreation, and so forth. The fiscal impact from both the residential and non-residential land uses we've estimated will be \$4.3 million annually in revenues to the County, but the cost to provide these public services to the County would be almost... that the County will provide to the residents of this project will be almost \$3.2 million a year. So I mean, obviously there are costs associated. The net fiscal impact is \$1.1 million annually. In essence, for every \$1.00 in public services that the County will spend to provide services to the residents and the workers of this site, \$1.35 will be generated back into the local coffers of Stafford County. May I have the next slide please? The next slide is a summary as Mr. Leming talked about that the applicant has come up with a value of the proffers for all the improvements that they're going to put into the UDA. Next slide please. The next slide is the breakdown of those line items and how they came up to \$20.7 million. So in essence, if you think about this presentation here is this project is going to generate a positive economic benefit to the County. It generates enough revenue to pay its own way; it doesn't present a fiscal burden to the County. And the applicant is going to pay for all these capital improvements, so the County does not have to pay to fund these improvements because these are being funded directly by the applicant. So, on that note, I'll turn it back over to Mr. Leming and I am available to answer any questions, whether it's now or at the end of our presentation. Thank you.

Mr. Leming: Let me ask one question; the question that staff had about home values. If you could address that then any questions (inaudible).

Dr. Bellas: Sure. What we did... you know, when we look at home values, home values fluctuate as you know from day to day, month to month, year to year. And Stafford County's no different than any other county in the Washington Metropolitan Area. But what we did do is prepare a fiscal break-even analysis. So, if the values of the homes are a little bit higher than what current market values are, what

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I did is I went through and I said okay, how low could these prices come down and this project could still fiscally break even? And those fiscal break-even values, they're in your report but I'll give them to you now, the fiscal break-even values for single-family homes, \$303,575. So currently the applicant is proposing to build homes of a certain size and a certain building quality and he's come up with estimated values based on his experience as a national home builder. But those values could come down to \$303,000 for single-family... they could come down to \$290,000 for townhouses and they could come down to \$143,000 for multi-family units and the project would still break even. What does that mean? For every \$1.00 in public services that the County provides to the residents, the project will generate \$1.00 in local revenues directly into the coffers of Stafford County. So, if there is a question on staff that the values may be a little bit high, and these change from year to year as you know, that we've already figured out fiscally how... mathematically, excuse me, how far these values could come down and the project could still break even. Does that answer your question?

Mr. Leming: Yes. Any other questions for Dr. Bellas?

Mr. Howard: Are you concluding your presentation?

Dr. Bellas: Ah, the formal part of it, but I could...

Mr. Howard: Mr. Leming?

Mr. Leming: Well, he's done. What I was going to suggest is this... staff has very conveniently come up with a list of their particular comments. Some of these you all have reiterated, like the right-of-way along Route 1 we're dedicating 70 feet, the plan calls for 80. We're going to work that out with staff. And that's true with a number of the comments that have been made by staff. For instance, the intersection improvements at Eskimo Hill Road; we'll work that out with them. Some of these comments are not long-standing historical comments by staff; they're fairly recent ones. But I think we can address them... I think we'll come up with something on the utilities issues. Essentially we're willing to pay for any infrastructure that is needed for the development with regard to the utilities. We just need to find where that point is. So I think we can address those things; with regard to some of the other questions, maybe just some brief clarification while they're fresh on your mind. The by-right plan is all on sewer; that was the point of the Comprehensive Plan Compliance Review. So there is no septic on the by-right plan. The airport authority was consulted and reviewed prior iterations of the development on these properties. And even though we don't have comments from them on this one, this is a much reduced development and does not get into the flight path at all, as was the case with some of the prior ones where we had negotiated aviation easements and proffered to include those with homes that we sold within the flight path. We talked about the shuttle bus. The land next to the corrections center, all that land is coming to the County. That's the general location that we've shown for the animal shelter. You know, there is natural buffering that's already there. Whatever distance I think the County things is appropriate since they'll own the land at that juncture I think would be up to them. Now... whatever your pleasure is, we'd be happy to answer any questions. We have experts in all of the different areas here. VDOT has reviewed the addendum to the traffic analysis with regard to the 527 review; we have our traffic engineer, he can tell you about that. So whatever your pleasure is (inaudible).

Mr. Howard: Okay, what we'll do is I'll bring it back to the Planning Commission. I'll go to my right this time and ask Mr. Hirons for the first set of questions and then we'll just go right down the line. Of the applicant... questions of the applicant.

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Mr. Hirons: Where to start. I think I have a couple. And mine are kind of specific about some of the amenities that are proffered, specifically the soccer fields. I think that's a great thing that you guys have found the space for that. And I believe part of the proffer includes the applicant is going to construct those and see those, etcetera, and I guess that's something along the lines built to Stafford County Parks and Rec standards.

Mr. Leming: Yes.

Mr. Hirons: I think that was their request perhaps.

Mr. Leming: That's what's in the proffer.

Mr. Hirons: Does that include lighting of the fields?

Mr. Leming: It does not. It does not include lighting, it does not include irrigation. Both of those would be add-ons; if we start talking about those kinds of costs, we can talk about some of the fields. But those are quite significant costs. We did meet with the Stafford Soccer League, SASA, and they had similar requests. And there was some suggestion that maybe fewer playing fields that were lighted and irrigated might be more appropriate. So, that is an issue that we're aware of. As proposed, these are seeded, finished, laid out...

Mr. Hirons: My concern is that's an awful lot of fields that's going to come online fairly... possibly fairly quickly over a period of time. I know there's a phased approach to bring those soccer fields online, but that then becomes a cost to the County of maintaining those fields of irrigation, lighting, electricity, etcetera. I was even going to ask is there any opportunity to get artificial turf fields out of those? Perhaps fewer fields or just a certain percentage of those fields, maybe a third of those fields, five of those fields, be artificial turf so it reduces the maintenance cost to the County because that becomes what costs the citizens.

Mr. Leming: We'll be happy to look at the cost of those things.

Mr. Hirons: Okay.

Mr. Leming: And the soccer league also asked about the artificial turf.

Mr. Hirons: Good. And I know that... I'm sure, and I think we're going to hear from some of them here in a few minutes and I'm sure they had to cancel games today and that would also help the leagues to be able to use synthetic fields and not have to cancel games quite as often; although today they might still would have to.

Mr. Leming: They'd be able to play tomorrow.

Mr. Hirons: I'd be remiss if I didn't bring this question up with one of our dedicated citizens back there who often comes to us and speaks about commuter parking lots.

Mr. Leming: Yes.

Mr. Hirons: The one that's there is 500 spaces. What's the plan for if there's a need to expand that? That's... you know, the next closest commuter lots are Courthouse Road and 17 I believe. So I could

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see that one becoming overflow or filled to capacity fairly quickly. We already run into those issues up on 610. Is there any opportunity to make that a vertical lot, not necessarily now, but the construction of it and the creation of the base level, make it so it's fairly easy to then go vertical if expansion is needed?

Mr. Leming: That could be looked at but keep this in mind too; one of the interesting things about the UDAs, the land bay here, that is, the part that's actually being developed, zoned and developed, is 140... how many acres? The land that's coming to the County is over 260 acres. That does include the playing fields, but if you notice the slide for the layout, there's a lot more land there. Twenty acres is supposed to go to the animal shelter but it's not locked it. And then we show two possible bays that could be used for a school site independent of the animal shelter and the playing fields. So, the first opportunity for expansion of commuter parking would probably be additional spaces within the Virginia Power easement that's contiguous to the existing 500 spaces that are shown. And there's quite a bit of acreage there and, of course, it's all coming to the County with no strings attached.

Mr. Hirons: The problem there is you just keep laying pavement on land which...

Mr. Leming: You know, even up on 610 we raised the specter of stacked parking lots and can't get, you know, because we have the ones up there and they're now seeking to expand. And we've come with several proposals for stacked ones; the cost of those still seems to surpass the availability of land. So right now, on 610, what they're doing is expanding the commuter parking lot rather than considering going vertical. But we're happy to look at the request. We ought to be futuristic; the UDAs say they're supposed to look ahead 10 to 20 years.

Mr. Hirons: Perhaps the citizen I referred to could make sure those pictures get to us of the other... what other folks are doing. And one last thing, and this is getting kind of specific on one of the proffers for the amenities, specifically for the development itself. And you'll probably know why I'm asking this. But the pool, it talks about a six lane pool.

Mr. Leming: Yes.

Mr. Hirons: Can we add in there that it'll also include all permanent hardware for any competition needs?

Mr. Leming: You mean like blocks?

Mr. Hirons: Exactly.

Mr. Leming: Okay. I think that we can handle alright. You know, the one thing I really am remiss about tonight; the applicant here is D. R. Horton. And I have with me one of the new Presidents, right, of D. R. Horton. This is Mr. Mark Giganti here. D. R. Horton is the largest homebuilder in America, so that's who the applicant is here. But yes, I think they can handle blocks.

Mr. Hirons: I hope that would probably actually save them a couple bucks if they did it now. Alright, that's all I have.

Mr. Howard: Thank you. Ms. Kirkman?

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Ms. Kirkman: Yes, you stated the applicant can't afford to do both the capital infrastructure that's recommended in the Comp Plan and cash proffers, that that's not an affordable proposition. But, of course, the guideline... the infrastructure in the Comp Plan is only a guideline and since by your own analysis, according to you the applicant, those capital infrastructure costs to the applicant are equivalent to what the cash proffers would be. Would the applicant be willing to forego the capital improvements and instead make the cash proffers?

Mr. Leming: That was a compound question. Uh, I think at this point we feel that we are obligated to comply with the narrative that's contained in the Comprehensive Plan. If the County, as a whole, gives us direction to the contrary, then we would consider that. But at this point we're going to follow the guidelines in the Comp Plan.

Ms. Kirkman: Could we get clarification from our attorney as to whether or not there is an obligation that they must follow the guidelines in the Comp Plan?

Mr. Leming: We don't have to follow the cash proffer guidelines; they're voluntary.

Mr. Howard: Yeah, instead of debating the applicant, I think it's a question that Ms. Kirkman would like an answer on. I don't know that Mr. Smith needs to answer it today but, you know, it's an interesting question certainly. But if you look at this particular project, there's a lot of the infrastructure that they're including and, you know, what I was going to ask for, Ms. Kirkman... you still have the floor... but a copy of the line items that were presented. And maybe that helps us understand that better.

Mr. Leming: Aren't those in the report?

Mr. Howard: But, Mr. Smith, at some point can you get that answer for Ms. Kirkman? Thank you.

Mr. Leming: Our line items are in the report.

Mr. Howard: Go ahead Ms. Kirkman; you still have the floor.

Ms. Kirkman: Uh, then in terms of the economic analysis and the slide that touts the great benefits that'll bring to Stafford County by virtue of the jobs created and the supplies purchased, is there anything anywhere in the proffers that only Stafford residents will be hired for the construction or supplies will be only purchased from Stafford businesses or that only contractors from Stafford will be hired?

Mr. Leming: No. Dr. Bellas, why don't you explain to the Commission the basis for your making the assertion that Stafford jobs would be created.

Dr. Bellas: These jobs are created because, if you look at the total amount of money that will be required to build this project, it greatly exceeds the figure in this... in Table 1. I've taken out all the money that's spent outside the County. So, if the applicant were putting gold plated faucets in the kitchen sinks and those had to come from California, well that money is all taken out of this analysis. So this is the money in this figure that's actually spent in the County. So whether he's going to pay a local hardware store, the lumber mill, he's going to the local concrete supplier, he's going to local carpenters or electricians, this is the money that's actually spent within the County. So I've excluded everything outside the County.



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Ms. Kirkman: But how do you know it'll get spent in Stafford County and not go across the river to Lowe's in Fredericksburg?

Dr. Bellas: Because the data for this analysis comes from the Bureau of Economic Analysis. So, the Department of Commerce conducts these input/output surveys for every county in the country. There's over 3,000 counties in the country. And they quantify by using a survey approach how money is spent in each county by how it's distributed; you know, lumber, concrete, windows, landscaping, etcetera. So, using the data from the Bureau of Economic Analysis, we have multipliers that can specifically tell us how much money will be spent within the County versus outside the County; because every county in the country, or at least Stafford County, has the means to provide these. If Stafford County was an extremely rural county with very, very little jobs existing in the County, then the applicant may have to go out to another county. But this is not the case with Stafford County compared to other counties in the country. So, this is all based on the data we get from the federal government.

Ms. Kirkman: But I seem to remember and even in one of your footnotes it said that the jobs number could be in the county, out of the county...

Dr. Bellas: That's job creation. That's job creation. The spending, the actual dollar amount, will be spent in the County. That's the multiplier effect of that impact going from \$135 million to \$197 million. The \$62.6 million, that additional multiplier effect, that's actually (inaudible) in the County. Yes, there are jobs that may come from outside the county... myself, I'm from Alexandria, so to the extent that I received some money because I did the study... that money leaks out of the county. But, for the most part, when you look at construction projects where there's concrete, carpentry, electrical work, landscape, earth-moving, to the extent that there's sufficient businesses in the County which I believe there are, then these businesses can bid on this job and if to the extent they bid competitively, you know, it's still a market economy, to the extent that they can bid competitively versus a firm outside the County, then they'll get that contract.

Ms. Kirkman: Well, my question for the applicant is, are they willing to give some guarantees about all those things... hiring county residents, contracting with county businesses and buying supplies from county businesses.

Mr. Leming: The applicant can agree to make reasonable efforts along those lines.

Ms. Kirkman: Could we get some hard targets around that?

Mr. Leming: Some what?

Ms. Kirkman: Hard targets; 30% of all jobs will go to Stafford residents, some percentage of all contracts... because what I've certainly heard from a number of the local builders is this project is a very large scale project, unlike anything else that's been done in Stafford County, and what I've heard from the small local builders is they don't get hired for these projects, that large outside firms get brought in for them.

Mr. Leming: We'll look at that.

Ms. Kirkman: Thank you.

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Mr. Howard: Thank you. Mr. Mitchell?

Mr. Mitchell: Mr. Chairman, I will save my time; we'll have further discussions, further information, further evaluations, and I've been evaluating this project and will be for some time to come.

Mr. Howard: Thank you Mr. Mitchell. On the fiscal analysis, you used I guess benchmarks; is that a proper way of saying that?

Dr. Bellas: Well, I actually used localized data. The data I have for the fiscal impact come from Stafford County. The revenue and expenditure data come from the fiscal year 2010 Comprehensive Plan Report, student generation factors come from the school system, housing population per housing unit comes from the Census Bureau specifically for Stafford County...

Mr. Howard: Right. So what would you say in your estimation, and I'm assuming that you've done this before...

Dr. Bellas: Yep.

Mr. Howard: Okay. So what typically is the percentage of fluctuation in the numbers? You mentioned earlier about the housing value and I understood that. So if you were to say, you know, it's not a concrete number, it's a moving target and always will have fluctuation...

Dr. Bellas: It's part science. I've been doing this now since 1996 and as Mr. Leming referred earlier, my Ph.D. is in regional economic development policy. My field of expertise, my dissertation research, is I actually created a fiscal impact model that is a methodological improvement over all the models that have been built over the past 75 to 80 years. Steve Fuller was my thesis director...

Mr. Howard: Right, but what I'm really asking... I appreciate... you have a great resume...

Dr. Bellas: The answer is from a fiscal (inaudible) based on all the work I've done, the variance is usually not more than 5% plus or minus.

Mr. Howard: Okay, so we can expect 5% better or 5% worst.

Dr. Bellas: Based on the data today.

Mr. Howard: That's fair.

Dr. Bellas: You know, if the project changes tomorrow, it changes.

Mr. Howard: Absolutely. Okay, and then, Mr. Leming, you mentioned that you're amenable to additional discussion. There were other elements brought up by staff that were of concern with fire/rescue and, so, at the end of the day, that list that they showed us...

Mr. Leming: It's going to shorten dramatically.

Mr. Howard: Okay.

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Mr. Leming: What I would propose, you know, they've given us this discreet list; I think based on the discussion we've already had that we can deal with at least two-thirds to three-fourths of these comments with staff and come back to you with the responses along those lines.

Mr. Howard: Okay, thank you. Mr. Rhodes?

Mr. Rhodes: Thank you Mr. Chairman. Mr. Leming, of those, just one particular one... I would call out the right-of-way on Route 1. Do you see an issue with that? Has that...?

Mr. Leming: We've already looked at that.

Mr. Rhodes: Thank you very much. That's all Mr. Chairman.

Mr. Howard: Mrs. Hazard?

Mrs. Hazard: Yes. I know that Mr. Zuraf presented us a I guess an old version of the revised view of the flight path and I know that you have indicated that they are out of that. Is there any way to just show it over the current? And maybe it's what Mike showed...

Mr. Leming: We have a slide to that effect we could actually show you tonight.

Mrs. Hazard: Okay. I mean, not that I don't want to take your word, but it's a visual here's really how close it is, is actually useful. And that may not have to be presented tonight, just in the future. And my second question is... unless, I mean, that one is fine for the future... is I know as we envisioned these UDAs we did talk about safe pedestrian and bicycle access to local parks. Is there a way to get through to those soccer parks for the residents there? Because certainly we know that people will be coming to the parks, to the soccer fields, all that; it would be great too if the neighborhood doesn't have to bring the car to come over. And maybe I just needed to look closer at it but that is something I would like to just raise in general to make sure that... because that was something envisioned in the UDA.

Mr. Howard: A bike path or walking trails.

Mr. Leming: Yes. If you look at your design guideline handbook, there is a display in there of the trail system within the development. Of course, one of the purposes of the TND is to try to eliminate exactly what you're talking about. So, the inner-connectivity within the development itself, getting to the soccer fields, all of those are the objectives of the pedestrian and bike trail system within the development.

Mrs. Hazard: It'd be useful if we could have that as a slide at the next time we're here.

Mr. Leming: Okay. And you all have... Mike? Where's Mike? They all have the... you have the book too.

Mr. Howard: Yes.

Mrs. Hazard: We probably do; I admit there was a lot to get through but that is something I want to make sure we do cover.

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Mr. Leming: Okay.

Mr. Howard: Thank you. Mr. Fields?

Mr. Fields: On the permanent job creation, you're just referring to... are you just referring to jobs in Stafford County in general?

Dr. Bellas: Yes.

Mr. Fields: Or jobs... so, you're not referring to jobs specific to this development site, correct?

Dr. Bellas: Well, those jobs would be created as a result of the spending on this site. So whether, you know, these permanent jobs, whether, you know, if you're... a new restaurant was opened up and 10 workers were there because of the additional residents and workers and the traffic flow, there was a need for a new restaurant, well that restaurant's going to serve not just the site but everyone in Stafford County.

Mr. Fields: So, I mean, so, generally do you envision the job creation of the commercial portion of this specific TND to be essentially service sector jobs to support the residents?

Dr. Bellas: Well, the most part would be residentially serving... service either commercial, office or service sector retail. But to the extent that there's a need in Stafford County for different types of office jobs, you know, like another law firm or another architectural firm or something, then those jobs... that company could locate into this new community.

Mr. Fields: So essentially you're not talking about really a high percentage of living wage jobs created there?

Dr. Bellas: We don't know that yet. All we know is based on the data that I've given you through the Bureau of Economic Analysis, that earnings are going to be almost \$4.2 million a year. Whether that's, you know, a large percentage of people earning six figures and a smaller percentage of people earning the average wage in the County or whether it's all the average wage in the County, we don't know that yet. I'm not trying to be evasive, it's that we don't have enough data at this point when those jobs are actually created... at full build-out when they actually have companies moving in then we can look more closely at that data.

Mr. Fields: So, on the... what is your sense of the plus or minus margin for error on those thousand plus construction jobs, I'll get back to that question of how many can be local to Stafford? How close to regional?

Dr. Bellas: That I cannot honestly give you a plus or minus percentage of error, because at the end of the day when it comes down to actually letting these contracts, it's a competitive process. And so if there's firms outside of the County that are much more competitive in pricing then that possibly exists that these jobs, some of these jobs could be outside of the County. We don't know that. All we do know is that we can actually measure the money that will be spent in the County versus the money that's spent outside of the County. But people live where people live, you know, so they may... if they're getting tired of commuting (inaudible), they may say you know this is a project that's going to take 10 years to build so maybe we'll move our family here and we'll buy a house in Stafford County so we don't have to commute. Those jobs then would be captured back into the County. At this stage,

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again I'm not really trying to be evasive, it's just that we need to get more data specifically. But it's a market economy; so to the extent that Stafford County vendors are competitive in their bidding process, they'll be worthy of these contracts.

Mr. Fields: What is the potential that the County can have some protection... I hate to use the word protection... but let's say is there any possible way that we can... because during the height of the construction boom, a significant amount of homebuilding was being done here by people of undetermined documentation status and it was cash day labor. I respect those people's right to try to earn a living just like anybody else's but, of course, my experience has been certainly during the boom that the profile of employment, particularly for residential construction, it was not union jobs, it was not even local craftsman style jobs. It was a lot of cash day labor. So I'm just wondering, is there any, you know, does D. R. Horton have any policies on that? Do they have a track record on that that's examinable from this perspective?

Mr. Leming: Mr. Giganti, would you like to address that?

Mr. Giganti: Sure. My name is Mark Giganti. I'm the Division President of the local division of D. R. Horton. In answer to your question, we do have a lot of policies with regards to who we hire in terms of the sub-contractor and in today's residential construction there are many levels that that go in. But it is a strict company policy and it is handled two ways. One is the direct policy about documented workers for our sub-contractors and any sub-contractors that they may hire and the second is we are the largest home builder in the country and we are also traded on the New York Stock Exchange. So as a public home builder we follow an even stricter set of rules so our insurance requirements are set up so that a lot of the small companies that operate like that, they simply can't meet our insurance requirements so they simply can't work for us. So it is kind of a dual approach as to how we handle that.

Mr. Fields: Thank you.

Mr. Howard: Alright, thank you.

Mr. Leming: Do you want to see that slide? I noticed that Mr. Zuraf is here and he could pull that up if you would like us to do so.

Mr. Howard: Mrs. Hazard would you like to see the slide?

Mrs. Hazard: Sure.

Mr. Howard: Of the airport? The flight path?

Mr. Leming: Debrarae says click... yes is that it Debrarae?

Ms. Karnes: Yes, there it is.

Mr. Leming: Yes. You see the...

Mr. Howard: Brown line?

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Mr. Leming: You see the red line, the red line is the airport approach surface that crosses, and you will see the residential development all to the north of that. We also have the noise contour that is the brown line. And again the development is to the north of that. This last blue line is a much more general line that Mr. Zuraf described and all of the development has always been within that. That is not an impediment to residential or most commercial development. We did have in the... the Airport Authority did go along with a prior school site location that was actually toward the northern... do you remember where it was Mike? Yes, right in there. And interestingly enough they have asked for a 20 acre school site that was a 15 acre or less school site and it had to match the TND in terms of style and development and it was to be a two-story school. So they did not do their... it was not planned for their regular type of school... cookie cutter school there.

Mr. Howard: Great, thank you.

Mr. Leming: Yes, sir.

Mr. Howard: I will bring it back...

Ms. Kirkman: I have some...

Mr. Howard: Oh, okay Ms. Kirkman, I wanted to open up the public comments.

Ms. Kirkman: The first question is can we get a copy of the agreement with Virginia Power about the encroachment into their easement?

Mr. Leming: I'm not sure... there is an agreement that would switch out the sub-stations, the locations of those. There's not an agreement with regard to the encroachment into their easement.

Ms. Kirkman: I thought we saw that some of the facilities were located in the easement?

Mr. Leming: Yes, there is a parking lot which is within the easement. That is correct.

Ms. Kirkman: But don't you have to have their permission to do that? I mean in other applications we have seen before us there has been a written agreement with Virginia Power about encroaching into the easement.

Mr. Leming: We are confident of obtaining that but there is not one at this point.

Ms. Kirkman: Okay and then, could we have the fella from Horton back up that was useful to hear...

Mr. Leming: The fella from Horton.

Ms. Kirkman: I can't remember his name.

Mr. Leming: Mr. Giganti?

Ms. Kirkman: And I won't ask him if he hears a who.

Mr. Giganti: Yes Ma'am.

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Ms. Kirkman: So could you go back to what you were saying about your insurance requirements and how that impacts on smaller contractors.

Mr. Giganti: We are basically self-insured and we have a backup from a major insurance company. So we require that any of our vendors subs, suppliers, architects, it doesn't matter who you are, has insurance. There is a company called A. M. Best that rates insurance companies.

Mr. Fields: Right.

Mr. Giganti: We require a seven and better, which most residential... this is over the years has actually been a problem because we have to get them to get that rating. And that rating is not cheap so they have to pay for it. So that is the way we handle that and we actually have a company that is in California that is a division of D. R. Horton that handles that. And it is an automatic system if your insurance drops, or your carrier changes your classifications it actually affects the accounts payable. They will not print the checks and a division president, I can't override that. I mean it is done at that corporate level. So it is a pretty... it is a tough... it is a very stringent thing. It was not created for this purpose but it is... it does serve that purpose also.

Ms. Kirkman: So does tend to be the larger companies, let's say Shirley Construction, those types of companies?

Mr. Giganti: Well, Shirley is more of a commercial contractor. There are... we use... William A. Hazel does a majority of our land development work which they own a large parcel that's almost attached to this. They have one of their local yards there. I mean they are a large contractor and they meet the requirements but so do our electricians. And if I could answer one of the questions about the local workers, in today's times you will find on larger residential developments because of the gas prices and because of what we call windshield time, in an eight hour day you are lucky if you get six hours' worth of production out of it. So generally those who have to drive further work less, so we call it the Buhl effect and it is one our local electricians, a very large electric contractor. He actually will put a shop as close to a community as possible and hire as many people around that as he can so that... because he wants eight hours of production in an eight hour day. And his windshield time is dramatically reduced. Now he offsets those costs because he gets more production out of the day, so it is an interesting concept that started several years ago in the boom and it is actually continuing on just to become competitive in the market place.

Ms. Kirkman: Thank you.

Mr. Leming: Thank you.

Mr. Howard: I will now open up for the public to make their comments. Obviously we will bring it back to the Planning Commission; there may be additional questions after that. So at this time I would invite anyone wishing to address the public hearing before us right now, which is the Clift Farm Quarter reclassification which is RC29000180, you may do so by stepping forward to the podium. I just ask that you announce your name, your address and just remind you that when the green light goes on you have three minutes. When the yellow light comes on there is about a minute left and then when the red light starts to show that would mean that you have to conclude your comments and allow the next speaker to address the Planning Commission. And just as a side note we will not address your comments directly as we did with the applicant and staff, but we will try to get you general answers, general in nature at the end of the public comment section.

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Mr. Michael: Mr. Chairman and members of the Planning Commission, my name is Gary Michael. I am one of the adjoining property owners to this rezoning to the north. This property... this proposed plan shows a portion of State Shop Road to be vacated and blocked off with a cul-de-sac, blocking my twelve and a half acre property access to Route 1. And I don't see any inter-parcel road connection for my property to access the proposed Clift Drive. My property is located inside the newly approved Urban Development Area. So this plan needs to take in considerations for adjoining properties inter-parcel road access and inter-parcel sewer connections for future development. I also have a couple questions for the applicant. Is the applicant going to be upgrading the sewer capacity for the additional units allowed inside Eskimo Hills UDA? I think there are 281 left and 414,000 square foot of commercial. Is the applicant going to change the Stafford County staff's recommendation that the current T1 Zone along proposed Clift Drive in the area adjacent to State Shop Road and Route 1 be changed to a T6? Thank you for your time.

Mr. Howard: Thank you very much. Anyone else wishing to address the Planning Commission on this public hearing matter may do so by stepping forward.

Mr. Waldowski: Paul Waldowski. I knew this day would come. Density requirements for a UDA are not met. That is what this is all about. You're also bringing in a home builder who is trying to set the... to be the first to bring a UDA into the Virginia area. I already own private recreational amenities and that's what these proffers are trying to do and eventually all these new homeowners will become members of HOAs. And I have not seen nothing about storm pond management, which is a big crisis in this county. Now I don't know what this thing is called, what is it the village house. I don't remember reading anything in the UDAs, we are supposed to have condominiums, townhouses and single family. That is how it is read. I've brought up before about the UDAs, you started with eight, to put us behind the eight ball and I was not worried about it because I knew eventually once one of these developers came in here, they are going to come in here just like Mr. Leming pointed out, 2006 they thought 1645 because the good old boom was getting in there and let's make that money and run. And another aspect about pricing, let's be realistic a home is only worth what one buyer is willing to pay for one contract. So don't give me this nonsense about 467K for a single family house. I personally bought a short sale that was built in 2005 that was priced \$576,000. I now own one twenty-fifth of a storm pond, one twenty-fifth of private recreational amenities that my HOA dues pay to keep the grass cut and I purchased the house for \$270,000. So you do the mathematics. And you can do all the impact analysis that you want to do because this decade is going to prove that there is going to be big economic aspects and whatever you do with this UDA, you have got five other ones to deal with and I think the sixth one is coming. Thank you.

Mr. Howard: Thank you. Anyone else wishing to address the Planning Commission may do so by stepping forward.

Mr. Myers: Good evening my name is Bill Myers. I am here representing Stafford Area Soccer Association. The reason I am here, we're ... as a soccer organization we need recreational fields and it doesn't even have to be for soccer it could be football, it could be for lacrosse, or anything. And what we recommend... I mean what to represent is like to have any fields, anything that comes into the county that would help in this area would be greatly appreciated. That's where we would stand. And if it comes... as for your question as an organization we would gladly help out in paying for some of the facilities, water or whatever it takes to put these fields in. So that is what I am here to say. Thank you very much.



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Mr. Howard: Thank you. Anyone else wishing to address the Planning Commission on this matter may do so by stepping forward. Seeing no one else advancing towards the podium I will now close the public comments and bring it back to the Planning Commission for discussion. Are there any additional questions that the Commissioners have at this time, of anyone?

Mr. Hirons: Mr. Chairman I did. Mr. Zuraf, I believe would probably be the one to answer this. The school request for the twenty acres, did they specify what type of school, what level of school, high school, middle school or elementary school.

Mr. Zuraf: No they did not.

Mr. Hirons: Thanks.

Mr. Howard: Okay, thank you. Mr. Leming we had a comment from an adjacent landowner. Do you have any answer for that?

Mr. Leming: What Gary didn't know was that I have already been in communication with his I guess partner on the property, Mr. Gollohan. One of the issues staff asked us to address was the inter-parcel connection in that direction. Whether or not State Shop Road can be cul-de-saced is not really our call; that is something VDOT will have to weigh in. You may recall the unusual configuration there and how it veers off of Route 1, part of old historic Route 1. I think that the two go hand in hand if you are going to do the cul-de-sac there has got to be the inter-parcel connection provided for so staff did ask us to look at that so we are doing so. As far as the sewer capacity, the county has a pro-rata program so to the extent that D. R. Horton has to construct certain infrastructure necessary to bring sewer to its site whether it is a water tower or a sewer main or whatever, if that is part of the capital improvement plan for water and sewer, then Horton is eligible for pro-rata reimbursement from other owners. So that is how that will work, they would oversize whatever the plan is that is abdicated by Utilities, they oversize and then look to other users for reimbursement under the pro-rata program. So yes assuming that is the direction we get from Utilities, oversize here is where the water and sewer for that northern portion of the UDA is going to come from, then it will be oversized to accommodate that. That is current policy.

Mr. Howard: I thought you had... I thought I saw two, I will say additional stormwater management ponds on the...

Mr. Leming: Yes and you know we have to comply with the stormwater ordinance. Those are pretty stringent state standards at this point so whatever those are we are going to have to provide for. I also wanted to explain a little bit about the T6 verses T1. We are looking... staff has asked us to look at the T1 zone that has been identified there. The reason that that was set up in that fashion was to assist with the density calculations that we are trying to meet, we are going to look at it again and see if there is another way to configure it. It's not much of an issue... there is not much opportunity there at least right now for other development because if we develop first that is next to an A1 district and there is going to have to be a buffer, a TND verses and A1 buffer in that very area too. So we don't think we are going to have any opportunity to develop that commercially even given its location because of the buffer requirement. But that is why they were put in the zones that they were to assist with the density calculations. Village homes are of course in you ordinance. They are a single-family detached... type of single-family detached home. They are just a variant of that, they are not all call single-family homes anymore if you look at the list in the ordinance there are several variations of that. So it is simply a smaller single-family detached home. I think we...

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Mr. Howard: The T1 portion of the parcel that I guess abuts or adjoins Route 1...

Mr. Leming: Yes.

Mr. Howard: ... and Eskimo Hill, was that... have you thought through that or is that still something in progress in your mind?

Mr. Leming: In all likelihood we think we can probably look at some kind of adjustment there, my point was that staff's comments was that ought to be in the T6 because there is probably something that could be done with that parcel. We don't think that is the case because half of that little wedge there... you may recall how narrow that wedge was right along Route 1. Nothing really can be done with that to any great extent because that's going to be the location, at least right now of a buffer yard, which is a pretty significant buffer in between the TND and the A1 zone, currently next door. Now if that property comes in for a rezoning as part of the UDA because it is in the UDA there would be no buffer requirement and there would be more opportunity there. But the reason it was excluded from the T6 is because we are trying to meet those state mandated density requirements for the residential units in the T6 side.

Mr. Howard: And then the last comment that I had taken note of was with the Stafford Area Soccer Association.

Mr. Leming: Yes.

Mr. Howard: And have you had discussions where they would actually help fund some of the improvements...

Mr. Leming: Well I...

Mr. Howard: ... in terms of the upgrades that other people have mentioned.

Mr. Leming: We did meet with them, but we had not heard that so far, but that sounded really good. I mean that would be a way to help some of the upgrades.

Mr. Howard: So that could be an opportunity to get back and get some money.

Mr. Leming: We did me meet with the Board recently... we met with the Board a couple of times as this project has moved along. But any help would be welcome and we understand the objectives of trying to get some artificial turf and lighting and irrigation and so forth.

Mr. Howard: Right.

Mr. Hirons: If I could Mr. Chairman. If I would be welcome I would like to participate in those meetings if possible, if you have future meetings with SASA or any of the other sports organizations that are specific to this project. Both because it may be determined this is within the election district I represent but also because I am the Parks and Rec Commission Representative from the Planning Commission, so...

Mr. Leming: Sure.

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Mr. Hirons: It would be useful for me to hear so I could pass that information along as well. Perhaps not as a participant if either party does not want me to participate, but as an observer I would really appreciate being able to...

Mr. Leming: We would be happy to have you there. We probably ought to include the Department of Parks and Rec at some point here also.

Mr. Hirons: Yes.

Mr. Howard: I think Mr. Rhodes had a question and then I will poll each Commissioner to see if there are additional questions.

Mr. Rhodes: Mr. Leming, I am sorry I forgot to follow up on this. I had asked staff about the road that is coming... the access road to the soccer fields.

Mr. Leming: Right.

Mr. Rhodes: That comes from Eskimo Hill on the bottom of the diagram it is not stated in the proffer when that would be built.

Mr. Leming: My assumption is that has to be built up front to get to the soccer field. We will be happy to clarify that in the proffer.

Mr. Rhodes: Okay.

Mr. Leming: I don't think we could build the soccer fields and not have a way to get to them.

Mr. Rhodes: We have got the one way that crosses over from the development.

Mr. Leming: Yes.

Mr. Rhodes: Further up Eskimo Hill Road, but then you come around to the bottom closer to where the correctional facility area is, and it has that main access road and I just wasn't sure...

Mr. Leming: We will clarify that for you.

Mr. Rhodes: Okay, thank you very much. That is all Mr. Chairman, thank you.

Mr. Howard: Thank you. Mr. Fields? Okay, Mrs. Hazard? Mr. Mitchell? Ms. Kirkman?

Ms. Kirkman: Yes I have two. The first is, you have a fairly large residual piece that remains in A1, what is the future use for that?

Mr. Leming: You are going to have to tell me which piece you are talking about. Do you mean the...

Ms. Kirkman: It is down on the bottom.

Mr. Leming: Well there is one that is actually off site. Are you talking about the one...

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Ms. Kirkman: No I thought it was on site.

Mr. Leming: Okay, yes there is a small piece... do we know the approximate acreage of that? Thirty-nine acres. At this point there is no proposed use for that.

Ms. Kirkman: What is the RPA... what is the tributary that runs through there?

Mr. Leming: Do we know the name of the... Paul do we know the name of the tributary through that portion of the property?

Ms. Kirkman: Not named? It is unnamed? Okay. And then is there... staff had mentioned this as a concern, is there anything in the proffers about the timing of the commercial build out?

Mr. Leming: There is no phasing at this point, we have talked with the applicant about that or my client about that and we will address that when we come back to the Commission. That is one of the comments that staff had made.

Ms. Kirkman: You will... because there are... I have seen... like you can go across the line and look at Hopyard Farms and there is lots of residential and the commercial is sitting vacant up front. So I think we would like to see that.

Mr. Howard: Thank you. Mr. Hirons, I don't know if you have any last minute... okay. So thank you we will close the public hearing and bring it back to the Planning Commission for discussion. So obviously there is a lot left. Does anyone want to make a motion just to move this to our unfinished business at this point?

Mr. Hirons: I will make the motion because this project is actually moving, I think, from the Aquia District to the Falmouth District.

Mr. Howard: There is a change of geography right.

Mr. Hirons: I will let you either make the motion or second the motion, but I will move to move item number six, are we on?

Mr. Howard: Yes.

Mr. Hirons: To unfinished business.

Mr. Mitchell: Second.

Mr. Howard: Any discussion? So the motion, to clarify, on the table is to move item number six under our public hearing which is RC29000108 reclassification of Clift Farm Quarter to the portion of the unfinished agenda. All those in favor signify by saying aye.

Mr. Fields: Aye.

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

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Mr. Mitchell: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay? Motion carries 7 to 0. Thank you. We are now on to public hearing number 7. Which is Amendment to the Zoning Ordinance. Proposed Ordinance O11-1414 would amend the Stafford County Code by establishing a new zoning district, Redevelopment Area 1, which is commonly known as Boswell's Corner. Mr. Harvey on Boswell's Corner.

7. Amendment to Zoning Ordinance - Proposed Ordinance O11-14 would amend the Stafford County Code by establishing a new zoning district, Redevelopment Area 1, Boswell's Corner (RDA-1). The purpose of the RDA-1 Zoning District is to establish land-use planning and urban design standards through form-based codes that promote the creation of a pedestrian-friendly destination neighborhood at the northern gateway to the County, with a focus on development of an employment center with a mix of uses, including educational and entertainment uses, supporting retail, and higher-density residential, with architectural variety, a network of streets that may include on-street parallel parking, and recreational opportunities.  
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Mr. Harvey: Yes Mr. Chairman, Mr. Zuraf will be making the presentation for staff.

Mr. Howard: Thank you.

Ms. Kirkman: Mr. Harvey, will that presentation include an update on the Board's actions regarding the redevelopment area?

Mr. Harvey: Yes ma'am.

Ms. Kirkman: Thank you.

Mr. Zuraf: Good evening, good night. Can I have the...

Mr. Howard: Good night.

Mr. Zuraf: ... the computer please? Okay one second. I am not going to go very far. Okay, item 7, the Amendment to the Zoning Ordinance to create the RDA1, Redevelopment Area 1, Boswell's Corner Zoning District. This ordinance looks to amend several sections of the County Code. In creating this ordinance, I am not going to go through all the sections. The sections listed on this screen are the portions that would be amended. On the next sheet are all the new sections of the County Code that would be created in making this Zoning District. A lot it are specific tables under this Zoning District. Looking at the history of this ordinance back in November of last year, staff was directed to move forward with beginning the implementation of the redevelopment areas as the redevelopment plan was still being... the elements of the redevelopment plan was still being considered. A key element of implementation is the recommendations to amend zoning ordinance and specifically the redevelopment plans recommended form based codes as one means to move forward in that direction. The County chose... staff chose initially to focus on the Boswell's Corner area and kind of do a phased approach being that that area was seeing a lot of initial development of all the redevelopment areas.

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And that thought was brought forward to the Boards Community and Economic Development Committee and they were all on board with that and that is why we are here with the Code for this one redevelopment area as a start. And also so our efforts did not overlap with some of the Urban Development Areas that kind of go along and overlap with the redevelopment areas. On March 1<sup>st</sup> the Board referred this ordinance after the review of the ordinance by the Community and Economic Development Committee the Board referred the ordinance to the Planning Commission. The Planning Commission considered this ordinance over a few meetings. There were questions regarding the Boards intent on this ordinance regarding residential densities. As you know the densities are a little higher than normal and do exceed some of the densities recommended in the Urban Development Areas. And on April 19<sup>th</sup> the Board adopted Resolution R11-92 which did provide a more specific recommendation that the redevelopment areas this Boswell's Corner redevelopment area includes seventeen hundred dwelling units. So that specific recommendation was provided. And on April 20<sup>th</sup>, the next day, the Planning Commission did initiate this public hearing for this district with the residential dwellings included or caveat that this ordinance would set a cap of seventeen hundred units for existing units, vested units and future units in this district would not exceed seventeen hundred. The ordinance itself in the district does follow the format that we have in our P-TND district where it utilizes the concept of the transect zones that kind of drive the intensity of development in these areas. Within this specific redevelopment area there are three transect zones that apply to T4, T5 and T6 which are a little more of the... more intense transect zones. And that went along with the land use concepts that were envisioned in the redevelopment area plan. As far as the density in this district, there is no overall maximum residential density within this district that would apply. The density would be measured within each transect zone. In the T6 zone it could be up to eighteen units per acre, T5 up to twelve units per acre and T4 up to six units per acre. Again this corresponds with a much more compact form of development that is envisioned in the plan. For somebody to come in and rezone to this district there has to be a minimum tract size of thirty acres. Then if... once the tract is zoned to this district others could come in on land that is less than that area if they are adjacent and adding to the district. Open space within these areas would range anywhere from thirty per cent of the site to in the T4 zone down to 5% in the most urban T6 zone. The district includes specific table with use and intensity standards, there is a minimum per cent non-residential required in each transect zone. There are also tables that list the permitted and conditional permit uses within each zone and then within each transect zone there are tables that highlight the setback, height, stories and lot width standards. Within this district there is no floor area ratio. There is no maximum floor area ratio. What drives the floor area ratio are all these other standards with the setbacks, height and parking requirements. That would drive what the actual intensity of the development is. With landscaping and parking the district would be exempted from the standard parking, loading and landscaping requirements. Which typically is like, for example with landscaping the thought is every different use it would be buffered from each other. The thought here is this area would be cohesive development that uses would not need buffering from one use to the other. There are specific parking standards provided that also include the provisions for shared parking. So uses that may have different peak hours could be... could utilize the same parking area, let's say a movie theater... parking for a movie theater could be shared with parking for an office use. There still would be transitional buffers that would be required around the perimeter of the district. There are also specific architectural design standards that are added in to this district that would be required for all the development. Each project in this case would be based on its individual merits, request would need to be measured against the stated density maximums. And the proposal would serve to implement the adopted Boswell's Corner redevelopment plan. This redevelopment plan was adopted last evening by the Board of Supervisors and in their action they actually lowered that recommended number of dwelling units in this redevelopment area to 750 in that plan. And so staff would definitely recommend the Planning

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Commission can consider that in their action. Remember that this district would recommend a cap of 1,700 units as it is proposed at this point. And I will turn it back for any questions.

Mr. Howard: Thank you Mr. Zuraf. I will start with Mr. Hirons this time. Mr. Hirons any questions for Mr. Zuraf?

Mr. Hirons: No I don't have any questions at this time.

Mr. Howard: Ms. Kirkman?

Ms. Kirkman: Yes, the Boards action last night, the number of units, was that intended to cover the existing by-right and approved subdivision plans up there?

Mr. Zuraf: It is existing units and then what ever is vested on already zoned residential that is undeveloped.

Ms. Kirkman: So it is to cover what is already basically...

Mr. Zuraf: Yes.

Ms. Kirkman: ... in the works?

Mr. Zuraf: Vested and existing.

Ms. Kirkman: Okay, thank you.

Mr. Howard: Mr. Mitchell?

Mr. Mitchell: Even though it covers what is existing there now... you know we look at Clift Farms and it was 498 residential units. This year it is 1700 residential units. So I know they are already there, I know they are already placed, but it seems amazing that we are looking at something that is three times the residential...

Mr. Howard: It is... Mr. Mitchell it is 750... the Board last night adopted the number.

Mr. Zuraf: They lowered it.

Mr. Howard: They changed the number from 1700 to 750.

Mr. Mitchell: They recommended.

Mr. Howard: They recommended, yes. That actually was voted on.

Mr. Zuraf: That actually was placed in to the plan... into the redevelopment plan.

Mr. Howard: We are behind that particular adoption only because how we scheduled this public hearing.

Mr. Mitchell: Okay, it was 1700.

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Mr. Howard: It was, the Board has not adopted, they passed I guess, a resolution last night that moved the Boswell's or the RDA to I think it was either 750 or it was what exists by-right.

Mr. Harvey: It is 750 Mr. Chairman.

Mr. Howard: Okay, thank you.

Ms. Kirkman: Mr. Chairman?

Mr. Howard: Yes.

Ms. Kirkman: I think just to clarify it was through the action of adopting the redevelopment plans...

Mr. Howard: Correct.

Ms. Kirkman: ... as amendments to the Comprehensive Plan.

Mr. Howard: Right.

Ms. Kirkman: Is that correct Mr. Harvey?

Mr. Harvey: Yes.

Mr. Howard: The Boswell's...

Ms. Kirkman: It wasn't a separate resolution, it was part of that process.

Mr. Harvey: Correct.

Ms. Kirkman: Okay.

Mr. Mitchell: That was my only question.

Mr. Howard: Okay.

Mr. Mitchell: I apologize. I did not watch the meeting.

Mr. Howard: That is okay. I never watch it either. Mr. Rhodes?

Mr. Rhodes: No thank you.

Mr. Howard: Mrs. Hazard? Mr. Fields?

Mr. Fields: No thank you.

Mr. Howard: That has got to be as festive as our meeting. Okay thank you Mr. Zuraf. We will now open up the public hearing portion where the public may address the Planning Commission on the public hearing which is before us right now which is the amendment to the Zoning Ordinance O11-14 which would amend the Stafford County Code by establishing a new zoning district, redevelopment



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area 1, Boswell's Corner. Anyone wishing to address the Planning Commission may do so now by stepping forward to the podium.

Mr. Waldowski: Paul Waldowski. So I will fill you in, yes it was... there are 744 by-rights but 750 was the number. There are 560 of those that are already developed, that leaves approximately 184 and there is 180 condos behind the post office, so that should give you a visual of what kind of space you have for development by bringing this down to 750. Now what is really interesting about this thing is how Quantico always comes up with Boswell's Corner, but before I get into that one of the comments that I made about the redevelopment area is they brought up Boswell's Corner, Falmouth Village, Courthouse Area and Southern Gateway. Well, I think two of those are UDAs, but like we saw earlier today they may never become UDAs if they don't meet these density requirements. So in regards to Quantico... before I left the office today I went and I looked at the housing at Quantico and what was interesting to me is how they say that cities around the Marine Corps Base are Dale City, Woodbridge, Dumfries, Lorton, Triangle and Occoquan. And yet they touch three counties, Fauquier, Prince William and Stafford. And their housing area has nothing to say with it. Now the reason I keep bringing up Quantico is because Quantico is federal land, new leadership will emerge, everyone has all of these aspirations that the BRAC is coming. Wow, let's watch what happens with the BRAC and you are going to have all these superior jobs. If you remember under President Clinton a 172,000 federal workers were downsized and if you are watching the news, the budget committee chairman, Representative Paul Ryan, is looking to trim down some more government aspects and if you read the media, the media is going to say oh we are going to replace all these jobs. Well, you are not going to replace all those jobs and remember what our whole forte is, we are going to work, live and play but we keep on building... why don't you build another commuter lot there and then we will be able to connect that to the Quantico VRE and of course we don't have no money to do the vertical because ... maybe we can use that money for Dr. Fuller and his Ph.D. students so they can give us an economic impact analysis. Have a good evening.

Mr. Howard: Okay, anyone else wishing to address the Planning Commission may do so by stepping forward to the podium. Seeing no one else advance to the podium, I will now close the public comments and ask the Commissioners if there are additional questions of staff on this. Ms. Kirkman?

Ms. Kirkman: Mr. Zuraf, now that the Board of Supervisors has settled the question of the number of residential units in the Boswell's Corner Redevelopment Area and that it will consist of the existing and by-right and vested units. How would you suggest the Planning Commission handle the fact that we have got transect zones in here that include mixed use and also quite high residential densities of up to 18 units per acre. Which I don't believe anything that is vested is at that density.

Mr. Zuraf: No the... as far as the density I mean this would even if the number was lowered to 750 it would I guess support shifting of existing or planned units to maybe... like more consolidated project where you could get a project that could be pretty dense, but it wouldn't cover a lot of area and you definitely would not have wide spread residential development because there is only 750 units that could apply. So you could... you know what I am saying is you could still keep the higher density I guess numbers, but you just may not get that much development occurring because if you... there is only a cap of 750 it wouldn't...

Ms. Kirkman: But could you clarify that because my understanding of what the Board did was to affirm the existing vested and by-right units, which is different... I don't recall and perhaps it occurred when I was not watching but I don't recall the Board affirming any moving about or transferring of density within the RDA last night. Did they?

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Mr. Zuraf: I don't think it specified but it is something that is... it could occur because the areas envision have these units and if the number is just a number then that could possibly occur or be proposed. I think that was discussed in the past.

Mr. Howard: Well and Ms. Kirkman, as a point of reference, it is a guide and also it is a redevelopment so theoretically someone could come and buy a bunch of homes and parcels and then redevelop and then you could see those transect zones would then have additional value which is what I think you are referring to. How can you build 18 dwelling units per acre when you have 38 residential units left to be built? But it would have to occur only through redevelopment. It sounds like in my mind as I think through you know what has occurred last night and what we are looking at today.

Mr. Zuraf: But the... and on the point of the mixed residential to non-residential, that is... that likely will be problematic...

Mr. Howard: Yes, absolutely.

Mr. Zuraf: ... with this ordinance because now...

Mr. Howard: It doesn't apply.

Mr. Zuraf: ... there is much less residential that could even occur so likely somebody is not going to be able to meet the mix requirement.

Mr. Howard: Well they won't be able to, it won't apply.

Ms. Kirkman: And what does staff recommend about that?

Mr. Zuraf: That likely should be reduced and right off the top of my head I don't know what the number would be. I think we have to crunch some numbers to see if you still... I guess the question would the Commission still want to keep that required mix or just leave it open.

Ms. Kirkman: Do we have to act on this tonight?

Mr. Howard: We do, we have until May... we will not have a meeting before May 31<sup>st</sup>.

Ms. Kirkman: And is there any... do we have in place any legislation that allows for this transferring of density within the RDA?

Mr. Harvey: No, there is no transfer of development rights currently in place in the county ordinances or plan. There is some wording in our Comprehensive Plan that encourages us to look at transfer of development rights and we currently are evaluating now with the joint committee of the Board and Planning Commission. But we don't have anything on the books right now.

Mr. Howard: Is there a... and maybe this is a Mr. Smith question, I am not sure but is there a way that we can recommend to reduce the number of dwelling units to the 750 and then all corresponding, I am not sure how we would word it but all corresponding transect zones and other mixed uses in terms of how that was calculated. So it is the same ratio and make that our recommendation moving forward so

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at least we are not talking out of both sides of our mouth, which we would be if we were to move forward with just changing the residential density in my opinion.

Mr. Smith: Yes, Mr. Chairman. I believe the Commission could make a recommendation that the Board consider reducing the 1700 to 750. In terms of making corresponding changes thorough out the ordinance, I think it would be helpful. My suggestion would be to write as much guidance to staff in terms of how to make those corresponding changes...

Mr. Howard: Okay.

Mr. Smith: ... as possible.

Mr. Zuraf: And in particular...

Mr. Smith: And by that specific direction.

Mr. Zuraf: Table 3.9A is a specific table that relates to the minimum and maximum percent of non-residential use and may consider even removing that table if such a small amount of residential left in the district.

Mr. Howard: Go ahead Ms. Kirkman.

Ms. Kirkman: My concern is passing and recommending passage of an ordinance with these residential densities of up to 18 units per acre when we don't have any transfer of development rights in place, because as soon as this is passed somebody can come in... could put in a rezoning application and we wouldn't be able to deny based solely on the fact that it's 18 units per acre.

Mr. Zuraf: But it would not...

Ms. Kirkman: Because that would be in compliance with the zoning ordinance. So that is my concern about moving... it just feels... it seems that we should be moving something with commercial transect zones or we should just not be moving anything at this point.

Mr. Howard: No, I think that is a good point, Ms. Kirkman. The last thing we want to do is create and intended consequence, which easily could occur in this scenario we now find ourselves in. Mrs. Hazard.

Mrs. Hazard: Did the Board send us a revised resolution? I mean they have clearly changed R11-92. I mean they told us what to advertise and including up to 1700 residential units which the proposed ordinance in front of us reflected. So I feel like we are caught between what to do because I can say I am not going to vote on an ordinance tonight that I can't read what we are going to revise. Because if we are saying let's move it forward to be determined basically, I don't then we can vote on something like that. I can't.

Mr. Howard: Well we... you know someone could make a motion to recommend denial to the Board of Supervisors in its current form.

Mr. Fields: I make that motion actually Mr. Chair. And then I will speak to the motion after I get a second.

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Mr. Hiron: I will second.

Mr. Fields: I think given what we have, I mean you know we have acted with all due diligence on this and it is pretty clear that the sentiment is how can we move... even if we agree... even if we know that somewhere in here is a logical concept that we could possibly support the density, we don't have an ordinance that allows us a workable version of that. So I think we are with all due respect, having to recommend denial. I would suggest that I think and I can make this part of my motion, though I don't want it to change the outcome necessarily. I think we are hard up against something that we have been trying to work through but it has been impending and looming over our heads with these RDAs all the time and it is that we have not really articulated before we get into the technicalities of zoning or even this other stuff if what Stafford's policy, vision and process is going to be for actual redevelopment. And that is kind of what we have hit a hard wall... as you start to play this out the broad strokes of the EDA's plan which is fine as they meet the reality of how the Planning Commission and the Board have to deal with land use have a disconnect on what our policy is going to be. Like you know do we envision 750 units as a total, do we envision...

Mr. Howard: Mr. Fields would you include in your motion the recommendation to select a different RDA so we can go through all these gyrations that you are talking about? You know what I am saying, so maybe you pick the Southern Gateway or we pick a different...

Mr. Fields: Oh a different RDA. That is actually a good idea, I will accept that. Let's recommend that we deny the Boswell's Corner but allow the Board to select a different RDA to... if we need... if they feel it is necessary for us to go through this exercise.

Ms. Kirkman: Mr. Chair?

Mr. Howard: Ms. Kirkman?

Ms. Kirkman: I just... I do want to go back to the reason why we told this is being presented to us...

Mr. Rhodes: Did we get a second on that?

Mr. Fields: I moved and Ms. Kirkman and Scott seconded.

Mr. Rhodes: Okay.

Ms. Kirkman: The reason why this was... that Boswell's Corner was picked first was because it's the only RDA where there is any significant commercial development going on. So what I am trying to figure out looking at this in light of the Board... and that there was a real need for some standards around that commercial development. So I am actually reluctant to say let's pick another RDA. What I do think we need to very quickly focus on is the standards for commercial development within the Boswell's Corner RDA. And there are actually... that is contained in here.

Mr. Howard: It is and we could do both in tandem but the other goal... there was another goal to understand the mixed use in terms of the residential development in those transect zones. So you are correct but there is also the bigger view but you are absolutely right we do need to put some standards around how Boswell's Corner will be developed from a commercial perspective.

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Mr. Fields: So maybe we should just keep the motion simple and just simply recommend denial requesting that we be allowed to work on the commercial standards with all due diligence.

Mr. Howard: Okay.

Mr. Hirons: I agree either way quite honestly.

Mr. Howard: Right.

Mr. Hirons: Because I think Boswell's Corner and probably Falmouth are two fairly unique RDAs. Boswell's because it's going to be primarily commercial and it's meant to or most likely going to attract a very specific customer, defense contractors that have fairly specific needs. So I wasn't even sure if what we are pushing through here really would meet the needs of the folks that we are looking to attract up there.

Mr. Howard: Okay.

Mr. Hirons: And Falmouth because it's Falmouth. But the other RDAs I really hoped early in this process we would have had the opportunity to start working on one of the other RDAs initially. I definitely want to send a message to the Board that we are not denying this because we don't agree with it. It is just very confusing that where we are we agree with the concept but we really need to be able to go back to the drawing board on this.

Mr. Howard: Alright. I will call for the vote if there is no other discussion. All those in favor of Mr. Fields motion which is to recommend denial for the redevelopment ordinance RDA-1 Redevelopment Area Boswell's Corner with the attached resolutions, Resolution R11-80, Resolution R11-92, signify by saying aye.

Mr. Fields: Aye.

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay?

Mr. Mitchell: Nay.

Mr. Howard: The motion carries 6 to 1. Alright, that brings us back to item 2, Reclassification of Quantico Corporate Center. And we were in the middle of hearing from the applicant. Hopefully you went and had something to eat.

***2. RC1000338; Reclassification - Quantico Corporate Center - Continued***

Mr. Moncure: I had a few cups of coffee.

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Mr. Howard: I do appreciate...

Mr. Fields: That is not good.

Mr. Moncure: A little jittery

Mr. Howard: ...your waiting and your patience. Can you, just for the record, identify who you are?

Mr. Moncure: Sure, James Moncure.

Mr. Howard: And I actually forget the question that you were answering. We had asked you a cemetery question, right? The family cemetery, you were working through that.

Mr. Moncure: Yes.

Mr. Howard: You had indicated with the family there was not real quote owner and there may have been one or two families actually involved in there.

Mr. Moncure: There is a couple as it turns out I guess I am an owner of it.

Mr. Howard: Okay.

Mr. Moncure: We have worked very closely with the family. We have no intent to move any of the cemetery at all. In fact we are going to expand it a little bit and provide parking. They will have access through our road and access through the other road. For me it was just... we are taking care of it.

Mr. Howard: Right.

Ms. Kirkman: Can we get that written up as a proffer?

Mr. Moncure: You can, but really it is an agreement between parties. I don't... I am not sure I need the government to force me to be a good citizen. And I certainly don't want to go to the pearly gates...

Mr. Howard: We agree, but you know things change, people change and things get sold. So we would like to see it convey with the land and putting it in the proffer allows the county to at least check on that.

Mr. Moncure: Well then it... the answer is yes.

Mr. Howard: Okay.

Mr. Moncure: The question is how to go about that. What I would suggest is that they copy what I have done at Aquia Church. Take three people that know and care about the cemetery, not a third-party person.

Mr. Howard: I think from our perspective that you are going to enter an agreement...

Mr. Moncure: Sure.

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Mr. Howard: ... and provide parking, the things you just said, we would like you to write down. We don't need the whole agreement attached.

Mr. Moncure: Right. But that might actually be attached to a deed on the purchase of the property, but I can't guarantee that. But if you want a proffer that is fine.

Ms. Kirkman: So Mr. Attorney, what do we need? Do we need something in writing from the applicant at this point?

Mr. Howard: To add... who is the staff... Mike are you working on this, Mr. Zuraf? Can you come up front please? I hope Mike did not have coffee.

Mr. Rhodes: He gets wired.

Mr. Howard: Do you have the proffer in front of you? I forgot what page it was on.

Mr. Zuraf: We do have... I have them.

Mr. Howard: I think it is just a matter of adding it in writing.

Mr. Moncure: You know it... a question for your Commission.

Mr. Howard: Yes, we don't have to answer it but go ahead.

Mr. Moncure: Can I proffer something to you all that I don't have full control over? The cemetery is split between two boundaries.

Mr. Howard: Yes, that is why I don't want all the details. The proffer would be that you have agreed to the parking lot, you know did you mention a fence you know, right.

Ms. Kirkman: And to not disturb the cemetery.

Mr. Howard: And not disturb the cemetery.

Mr. Moncure: Absolutely.

Mr. Howard: That is the three things we are looking for.

Mr. Moncure: Not a problem.

Mr. Howard: Okay. We are not asking for anything more than that because that other agreement is between you and the other families.

Mr. Moncure: Okay.

Ms. Kirkman: I was speaking with Mr. Hornung this morning all the way up to the point where he is stepping into the airport to go out of town and he certainly seemed amenable to many of the solutions that we were discussing, so I want to review those with you to see if we can get those incorporated into the proffers. The first was to develop a proffer that addresses the construction of a second northbound

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left turn lane on U. S. Route 1 in the context of the widening of Route 1. And I know Mr. Harvey had some experience in doing this along Deacon Road. Are you willing to make that proffer tonight?

Mr. Moncure: I am not, but I am also not an engineer and I am not going to be able to speak to that traffic, you know in an expert fashion.

Ms. Kirkman: The traffic impact analysis indicates the need for that and Mr. Hornung stated the only objection was that your company could not take on the cost of both widening Route 1, which they would have to do to add the turn lane and the turn lane. And so what he certainly seemed amenable to agree to was to proffer to construct the turn lane at the point at which Route 1 was widened.

Mr. Moncure: Okay, I think what we are trying to do is... my purpose up here is to maybe give you some background that you are not fully aware of is the original swap of land. And I think it would be helpful for the Board to hear that.

Mr. Howard: Go ahead.

Mr. Moncure: If you would indulge me on that. Moncure's and the County got together in 2001 to do the swap. Pete you remember, you were there. And certain... and we had this vision for eight to ten buildings and I indeed proffered out certain things so that it would end up being eight to ten buildings up on that property. And in that agreement they said okay we want five hundred thousand dollars for ball fields, which are now there on the park and you know with that there was an agreement that couldn't really be penned that said this county would aid us in getting the entrances necessary for eight to ten buildings. So on one side traffic was already considered because it was already part of the plan to have eight to ten buildings there. Now I knew when I took possession of that property it was an imperfect piece. It wasn't not just a second entrance there was not a workable first entrance. So from my perspective when you say will you proffer for this, will you proffer that. I'm kinda still waiting on the county to aid me in these entrances. But I did not rely on it. I went and did my own work. The first thing I did was I had to buy a price of property and be able to realign it across from Charlie McDaniels' place. Okay, that is just to get entrance one. The second thing I had to do was a land swap within the properties to make it so the road could go all through Telegraph. The third thing I had to do was an acquisition of the piece of property 12-1, an acquisition of 12-3, and acquisition of 12-4 all so that we could get that second entrance. All these have been my expense. And I am not begrudging that, I want to do what is necessary to make this project work. But I would say that if you look at it in that light, I have proffered an awful lot to make sure that this vision that we both had would happen. And that is the perspective I come from. When you bring up the cemetery and you mentioned it was a gentleman that is not here tonight, that may have spoken to this rezoning. Did you bring that up? There was a gentleman?

Mr. Howard: Yes there was.

Mr. Moncure: He just sold me a piece of property in order to make it so that road can go through, so you can have access to that cemetery. So I hope that you get that story as well. But putting this property's entrances together has not been easy and I brought my little board that I walked around with for three years. (Inaudible, speaker stepped away from the microphone) That is not an easy process. I had no help from the County, nothing.

Mr. Howard: You have to get near the mic so we can...



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Mr. Moncure: So you can hear it.

Mr. Howard: ... hear it. Plus the record can hear it.

Mr. Moncure: But you know this was a project. Basically there are seventy people on there that I had to purchase to be able to make this second entrance work. It seems to me like here I have gone out and gotten the property, it needs to be rezoned. But you almost are going to hold yourself hostage from your own vision. Because we need that second entrance to be able to do the rest of the building. And you are holding yourself hostage if you don't move this on. I hope you will vote on it tonight and move it on. But you are holding yourself hostage on the tax revenues that you anticipated which was the whole reason we did the swap.

Ms. Kirkman: Mr. Moncure could you clarify what you meant when you said that that there was a discussion that couldn't be penned that the County would aid you in all of this. What kind of aid were you looking for from the County?

Mr. Moncure: You know it really was never... we couldn't really go into specifics because nobody really knew how it was going to pan out. I knew I would go and try and help as I could which was purchasing property. I don't know what all the County tools are to help. And certainly at that time I was very green to the process and I had no idea what the County was saying. But the idea was hey we all want this project to work, we all have the vision, we all want the ten buildings, we all want to house defense contractors and we will figure out how to make these entrances work. Well I went and did that on my own. The only thing you have to do is rezone it.

Ms. Kirkman: Well actually what we need to do is insure that the County is not burdened with the infrastructure cost related to increased traffic related to this. And I want to get back to the question I asked you which was your own traffic impact analysis under scenario one, which does not include a third access point, which the third access point is not required by any proffers, by VDOT, by anyone. It is a preferred scenario but it is not required.

Mr. Moncure: Sure.

Ms. Kirkman: So the discussion I was having with the representative of your company up until he left the county was that okay given that more than myself on this Commission, I assume, are opposed to the use of eminent domain for private development. Which is what it appears is needed for scenario... for the third access at this point. How can we make this project with only two access points? Which is all that is required under any proffers and any agreements. So we went back and looked at the modeling that was done under scenario one, which did not include the third access point. And your own traffic impact analysis called for a second northbound left turn lane along U. S. Route 1 in the context of widening of Route 1. And by that we would not expect you the applicant to make... to build that turn lane until the point at which Route 1 was widened. Are you willing to proffer that?

Mr. Moncure: I am not at this moment willing to proffer...

Ms. Kirkman: Okay, thank you. Are you willing to remove in the proffer the references to the County acquiring right-of-way for the third access point?

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Mr. Moncure: I think I made this clear before, I am not an engineer in traffic studies. I am not going to pretend to be. I am trying to give you a perspective, the traffic was already considered at the time of the swap that needed two entrances.

Ms. Kirkman: Mr. Moncure, I understand you are not an engineer, but you are here representing the applicant tonight.

Mr. Moncure: But what we are deciding in is a rezoning of the property that has been acquired to make that second entrance happen.

Ms. Kirkman: So Mr. Moncure you have got the property for the second access.

Mr. Moncure: That is correct.

Ms. Kirkman: The language in the proffer that refers to the County using eminent domain to acquire right-of-way is regarding the third access point.

Mr. Moncure: Right, I don't...

Ms. Kirkman: Which we have determined...

Mr. Moncure: I don't think it should be mixed. I don't think it should be in there together, quite frankly.

Ms. Kirkman: So you...

Mr. Moncure: You are asking us to proffer to build something on a third access that hasn't even or may not even...

Ms. Kirkman: No in fact I am asking... I am doing the exact opposite Mr. Moncure and I am speaking to you about these things even though you are not an engineer because my understanding is you are here representing the company tonight. Go given that you are the representative for the company tonight, meaning the applicant are you willing to remove from the proffers the references to the County acquiring right-of-way for the third access point?

Mr. Moncure: Yes.

Ms. Kirkman: Okay. The other thing I discussed with Mr. Hornung was that currently proffer number seventeen is structured so that there is a six month lag between the construction of the extension of Corporate Drive after the issuance of the occupancy permit. And where I think... Mike, Jeff let me know if you... if this is correct or not. I think where we got on that was the proffer would be restructured so that a temporary occupancy could be issued, and this is the same way we did it with Stafford Hospital, and then Corporate... the extension is completed prior to the issuance of the final occupancy permit. Is that the way we are talking about structuring it?

Mr. Harvey: Yes there was discussion that it would be based on a final occupancy permit.

Ms. Kirkman: So to... are you willing to make that change?

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Mr. Moncure: You will have to repeat that.

Ms. Kirkman: So what it would do right now proffer number seventeen states that Corporate Drive, the extension would be completed six months after the issuance of the occupancy permit. And where I think we were earlier in the day was that we all agreed that there wouldn't be an issue if that was changed to Corporate Drive will be completed prior to the issuance of the final occupancy permit.

Mr. Moncure: Final occupancy for what? The first building?

Ms. Kirkman: Do you want to... Mr. Zuraf do you want to help him out here?

Mr. Zuraf: Yes it was the discussion, the first building within the...

Mr. Moncure: Within this?

Mr. Zuraf: ... subject, yes. The twelve acres.

Mr. Moncure: The road would have to be done first. We can't get people to their building without the road. Am I missing something?

Ms. Kirkman: Mr. Moncure... Mr. Zuraf, can you explain?

Mr. Zuraf: The issue was potentially somebody could build a portion of Quantico... Corporate Drive maybe up to this point for one use and not construct it all the way through. So the thought was requiring the full connection through in advance of occupancy for the first building.

Mr. Moncure: Not a problem.

Ms. Kirkman: Because Mr. Hornung explained because you actually need that because some of the law enforcement people that you have got back there.

Mr. Moncure: So you had an answer that it would go all the way through? Correct?

Ms. Kirkman: What's that?

Mr. Moncure: So Chris did tell you that it would have to go all the way.

Ms. Kirkman: He said that you all need it for some of the types of people you are trying to get back there. And all we are trying to clarify is the timing of the completion of the extension.

Mr. Moncure: Okay.

Ms. Kirkman: So lastly I know you have the engineer from here. Can he step up?

Mr. Riley: Yes.

Ms. Kirkman: Hi; I think Chris was going to get in touch with you about doing some modeling?

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Mr. Riley: Yes and for the record John Riley, formerly with Kimley Horn, now with Bowman Consulting, but I am being retained to continue this effort. And I did not receive the request for additional work until this afternoon due to some meetings. So I have not been able to initiate anything responsive to that request. But when Mr. Hornung is back in County I assume that we will be discussing that with him.

Ms. Kirkman: Okay. So where we are we've got the additional... Mr. Attorney, Mr. Harvey if you could advise what we need to have if anything from the applicant is that the three changes to the proffers that the applicant agreed to tonight were to add the three points regarding the family cemetery, to remove the references to the County acquiring right-of-way for the third access point and to restructure proffer seventeen so that Corporate Drive is completed prior to issue of the final occupancy permit. Do we need that... I know sometimes we have had some Attorneys say we need it is writing right now, some don't.

Mr. Smith: Ms. Kirkman I believe it would be helpful if we could have it in writing. That way the applicant and the Commission could review it before we are actually taking action on it. I think the Commission could still make a recommendation to approve it if it so desired with the additional proffers and restating the changes. But I think it may be preferable if possible to write them out so that the Commission does have the actual language before them as does the applicant.

Mr. Moncure: Ms. Kirkman if it helps at all with your decision making this third entrance scenario is... you all may know there is an existing road there. There are multiple owners on that road and the owners are actually split up on the road. Some own the top and the bottom, some own in between. All of the owners that own the road are willing to put that into a third entrance. We have worked with them and they are fine to do that. I am not really sure how all this became a proffer thing on the third entrance. Two entrances are fine with me but I would take some time to think about it yourself if that ten feet is needed up the side of that road to make a legitimate third entrance that is lighted, that person that if you were to do eminent domain with, you just gave him a lighted parcel, two lighted corners on Route 1. I am not trying to make the decision for you but I am saying by taking that out you may be hurting that person. But that's just from a development idea.

Mrs. Hazard: Mr. Chair.

Mr. Howard: Yes Mrs. Hazard.

Mrs. Hazard: Is it completely clear that is has to be the County? Is there other money...

Mr. Rhodes: It says County or other entities' acquisition.

Mrs. Hazard: Well I am trying to think outside the box, is that other entity, could that be some of this BRAC thing. I am just trying to get it... what we are saying here and whether we do shoot ourselves in the foot.

Mr. Rhodes: It says what will happen should there be the County or other entities' acquisitions. It isn't direct that they do it.

Ms. Kirkman: So the applicant has agreed to remove the references to the County acquiring right-of-way. And now I understand you also are not agreeing to address construction of a second northbound turn lane.

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Mr. Moncure: That is correct.

Ms. Kirkman: And at this point you are also not prepared to offer any other transportation improvements because you have not done the modeling yet.

Mr. Moncure: I think what Mr. Hornung shared with you today is that if this could pass this Board today, that they would be willing to talk in the interim as it gets to the Board to work things out. Nobody... look bad traffic isn't good for my project it doesn't make sense for anybody. But we need to move this forward. We are really strong-holding ourselves from what the original vision was. And you have got one little piece of property holding up, you know, eight more buildings of tax revenue. For me it doesn't make a whole lot of sense.

Mr. Howard: Mr. Harvey was there some additional revenue sharing that hadn't been used on was it George Mason Drive at some point?

Mr. Harvey: Mr. Chairman, several years ago the County worked with VDOT to designate a project for turn lane improvement on Route 1. Right now it is my understanding that it's committed for the intersection with realigning George Mason Drive to align up with the access road that Mr. Moncure mentioned. There was \$300,000 committed from the County from the Economic Development Authority and also \$300,000 match with VDOT. That would not fully fund that project, but it's a start.

Mr. Howard: Right. So you know, I don't think we want to do anything to jeopardize that either. So not knowing fully enough about that project.

Mr. Moncure: But that's... again that's... I think we really are mixing two different entrances here. Somehow this proffer, as you have been talking with Chris, has kind of warped into its own little mess. We are talking about rezoning the properties necessary to put the second entrance in. And quite frankly Fire and Rescue and the Rescue Squad want it there, the Police want it there and of course the project needs it there. I am not sure why we are trying to attaché... it is almost like they do in Congress with these Special Item Bills that they try to attach to everything else. It just... it doesn't make sense. Let's look at this as we are trying to get a second entrance. I have worked hard to obtain the property. The County didn't have to go in and condemn everything. I have worked with the landowners on their cemetery. They are happy. They additionally sold property to allow that road to go through. What we are looking to do is just what the original vision was, which was an entrance here and an entrance here and let's get building those buildings.

Mr. Howard: So the three elements that you have agreed to are the cemetery, three bullets under that.

Mr. Moncure: Sure.

Mr. Howard: There was the removing the third entrance.

Ms. Kirkman: Mr. Chair, it is not removing the third entrance.

Mr. Howard: Well removing the...

Ms. Kirkman: Removing the references to the County acquiring right-of-way.

Mr. Howard: It doesn't say that though.

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Ms. Kirkman: It's... right now in the proffers it does say that.

Mr. Howard: It does not say the County is going... where is that exactly?

Ms. Kirkman: It's on... let's see its proffer number...

Mr. Howard: It says the County or other entities acquisition...

Ms. Kirkman: Yes.

Mr. Howard: ... of the right-of-way on the west side...

Ms. Kirkman: That is right.

Mr. Howard: ... of Route 1...

Ms. Kirkman: That is exactly it.

Mr. Howard: ... prior to construction of an entrance road from the third parties as shown on the GDP.

Ms. Kirman: Right and he has agreed to remove the reference to the County there. And on point B.

Mr. Moncure: Okay.

Mr. Howard: So then what happens... that was my point though? What happens with that six hundred thousand dollars that is out there that is allocated for that... for the George Mason intersection? Why wouldn't we...

Mr. Moncure: If we think about this in sort of logical terms, can I really... can I really tell the County what they can and can't do in eminent domain? I mean you know.

Mr. Howard: Well, another entity could be you, it could be BRAC, and it could be anybody that says hey we are going to help participate in acquiring the right-of-way.

Mr. Moncure: But that would be acquiring that would not be eminent domain.

Mr. Howard: No, it doesn't say eminent domain.

Mr. Moncure: I mean what I am being asked to do by Ms. Kirkman is essentially say...

Mr. Howard: Only if you agree, so either we have got to move along for the sake of moving along. So let's talk about the things that you are agreeing to. Let's get then written.

Mr. Moncure: Got it.

Mr. Howard: We have got to... we only have a certain amount of time before the tape runs out.

Mr. Moncure: No problem.

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Ms. Kirkman: And then Mr. Chair the third thing was the restricting proffer number seventeen so that Corporate Drive is complete prior... the extension of Corporate Drive is completed prior to the issuance of the final occupancy.

Mr. Howard: Right.

Mr. Moncure: I don't see that as a problem.

Mr. Howard: So on that... are we going to handwrite this or how do you want to do this? What is the best way to do this?

Mr. Zuraf: If I might I may suggest that we move to the next item and let me move to the side and get this written out and then come back and that might be the best way to kind of get it right.

Mr. Howard: That is a wonderful...

Mr. Zuraf: And just for clarification, so for 19A and B, is it really just taking the County off that so it still remains as the acquisition of the right-of way? So it is still all written out there as...

Ms. Kirkman: Mr. Zuraf you added other... the blue part was staff's comments so what other entity were you thinking of when you added that?

Mr. Zuraf: If the improvement comes in through this widening of Route 1 through the Quantico Growth Management Committee efforts to... there could be acquisition through that project for BRAC. And I don't know who would do that, but that is where we left the flexibility.

Mr. Rhodes: That was a good add.

Mr. Howard: Yes it gives you flexibility.

Mr. Zuraf: So...

Ms. Kirkman: So I think... So if you think there is for instance the State or Federal entity that may do that leave I guess other entities acquisition.

Mr. Rhodes: Just take out the first five words and just say subject to acquisition of the right-of-way.

Ms. Kirkman: Yes. There you go.

Mr. Rhodes: That leaves it still possibly the County that leaves it still possibly anybody.

Mr. Howard: Alright, go ahead Mr. Moncure.

Mr. Moncure: Just to kind of give realistic thing on what is going to happen. That owner is most likely going to try to develop that property.

Mr. Howard: Sure, why wouldn't they?

Mr. Moncure: If he is not he is going to sell it to somebody that is.

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Mr. Howard: Yes.

Mr. Moncure: At that moment the Board is going to say proffer this piece of land so that there is inter-parcel connectivity with the Quantico Corporate Center. I mean I am assuming that would happen. That solves the problem. Not a problem. If that owner comes in to you and says hey I want to develop this property, if I were you all I would just say great, proffer this slip and we will connect you to the Quantico project.

Mr. Howard: Okay, thank you. Mrs. Hudson, do you want to go over the Temporary Family Health Structure, the Granny Pod? Is that what you are doing this evening? Okay, I assume that because you are still here.

3. *Temporary Family Health Care Structures (Time Limit: July 4, 2011) (Deferred at April 20, 2011 Meeting to May 4, 2011 Meeting) (Deferred at May 4, 2011 Meeting to May 18, 2011 Meeting)*  
*(Authorize for Public Hearing by: May 18, 2011)*  
*(Potential Public Hearing Date: June 15, 2011)*

Ms. Hudson: Good evening Mr. Chair and members of the Planning Commission. Two weeks ago, May 4<sup>th</sup> additional information was requested regarding the special regulations for the temporary family health care structures. I put the information into a memo for you and if you have any questions I will be happy to answer. I also made a statement that the State Code states that the Zoning Administrator is vested with all the necessary authority on behalf of the governing body of the locality to insure compliance with this code section. Evidence of compliance with this section may be required annually on the anniversary date of the initial zoning approval including a current written certification by a physician licensed by the Commonwealth. Some of the other jurisdictions that have proposed ordinances and standards have put that in their code. I did talk with a gentleman that I was put in touch with from a land planning and zoning consultant company in Richmond. He stated that he was not aware of any other states that have adopted an identical law as Virginia has. But some of the other states are considering similar legislation. That is all that he could give me. The proposed ordinances and standards for the temporary health care structures that have been gathered from other jurisdictions in the Commonwealth are all similar to Stafford's proposed ordinance O11-15. I do have one... I would like to ask you if you send this on the public hearing if you would please amend Section 28-35 in the proposed ordinance to include the RBC Zoning District. Unfortunately we forgot to put RBC on this list and in the RBC Zoning District single family detached dwellings are allowed under both executive and retirement housing and I need to add that and do this 28-35, for the advertisement.

Mr. Howard: Do you have a version of that? That we can... no. Okay.

Ms. Hudson: No I don't.

Mr. Howard: But you will have one before... this has to go to print tomorrow? Right?

Ms. Hudson. Yes.

Mr. Harvey: Mr. Chairman we will be sending it off to the newspaper and we do have a little time before the advertisement, but not before you next meeting.

Mr. Howard: Right. Okay, I assumed it had to go out Thursday, I am not sure.



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Ms. Hudson: I am not sure.

Mr. Howard: Okay. Alright any questions of the Commissioners of Ms. Hudson?

Mr. Hirons: I just have one question Ms. Hudson.

Ms. Hudson: Yes.

Mr. Hirons: The statement you said proposed ordinance standards for temporary with other jurisdictions. No other jurisdiction though has adopted an ordinance yet, to the best of your knowledge. Correct?

Ms. Hudson: There are, I don't know if they have adopted an ordinance, but some of the jurisdictions have adopted regulations. And I can go through the paperwork here. Rockingham County they have adopted an application for temporary health care. The York County ordinance... the York County they have adopted definitions. Hanover, I have a draft proposal for an ordinance amendment. Fauquier County, they proposed a text amendment for their zoning ordinance. Rappahannock County, they added a couple of definitions to their ordinance for this purpose. Arlington, they adopted standards for these structures. Did I say Arlington?

Mr. Hirons: Yes you did.

Mr. Howard: Ms. Kirkman?

Ms. Kirkman: Ms. Hudson, in the memo you gave us and we have seen this in other language you have given us as well, but evidence of compliance may be required annually on the anniversary date of the initial zoning approval including a current written certification by a physician. Do you see, like we have not really incorporated that language in any kind of specific way into the ordinance?

Mrs. Hudson: No.

Ms. Kirkman: Do you think there would be any problems with if we go over to Section 28-25 under definitions. When we look at the definition of mentally or physically impaired person, if we were to insert after Section 63.2-2200, as certified and then insert on an annual basis in a writing provided by a physician.

Ms. Hudson: I don't have a problem with that, but Alan...

Ms. Kirkman: That would just make it clear if you went to enforce it.

Ms. Hudson: Do you have any comments on that?

Mr. Smith: Ms. Kirkman, I don't foresee a problem there other than clarifying that they are required to provide the certification both up front and then annually.

Ms. Kirkman: So we could say a certified initially and on an annual basis.

Mr. Smith: Yes, I think that would be a good idea to just make that clarification.

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Mr. Howard: By a medical doctor?

Ms. Kirkman: Well that is what it states further on.

Ms. Hudson: Physician.

Mr. Rhodes: It says licensed physician.

Ms. Hudson: Licensed.

Mr. Howard: Okay.

Mr. Hirons: Mr. Chairman if there is no other discussion I actually have a motion on this.

Mr. Howard: That would be wonderful Mr. Hirons.

Mr. Hirons: Okay. My motion is similar to Ms. Kirkman's motion earlier. I said we would come back to that in clarification. I would move that we authorize publication of this for public hearing and the reason being because we are up against a time limit. However, at the same time ask the Board of Supervisors if we could table this issue indefinitely and also ask that they work with our state legislative representative to re-examine this legislation and see if it is doing really what we want to do and what they want to do. And I have some discussion points if I get a second.

Mrs. Hazard: I will second.

Mr. Hirons: My point to that is we are up against a time limit so we kind of have to send it towards public hearing or authorizing advertising public hearing. However if we are able to table it, I want to be able to cancel that public hearing. I have a lot of issues with these or this whole issue that kind of blossomed up over the last week or so. And part of it was at Rachel's presentation last time she included how this issue kind of rose up from the state legislative body. It was a piece of legislations that was offered by a Delegate that represents Salem or used to represent Salem. And it appears that the only company possibly in the Country that builds these things happen to be in Salem. So obviously, you know it is going to help him if he has some ordinances out there that allow him to market his product much easier. But I am a little concerned about the consequences of that. And the reason I bring up the legislative body is... it seemed to have gone through because it sounds like an awful good idea. You know who doesn't want to take care of their mother or grandmother locally rather than send them to a nursing facility. However, again I am very concerned about the unintended consequences of that. There was an article in the Washington Post that I found today that was, I believe, published May of 2010. And it kind of described how this thing made it the through the General Assembly. He was able to do it without a prototype of his building, without hiring lobbyist and they were able to get this legislation passed. That just starts sending off alarms to me that something just is not right. And I don't want Stafford County to be a victim of something that, you know, I would not want to accuse anyone of anything but it could have some ethical issues on how it came about. And beyond that, although there are some other jurisdictions that have adopted certain aspects of an ordinances or regulations, if we were to continue moving at the pace we are in this my fear is that Stafford County is going to be the first that's going to have the ordinance and my fear is whether it is this company or a company that is hired to market could start preying on the seniors here in the county or families of seniors here in the county of selling these things quickly to them, again as just an unintended consequence of us pushing this through.

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Mr. Howard: Okay, any other comments?

Ms. Kirkman: Mr. Chair?

Mr. Howard: Ms. Kirkman?

Ms. Kirkman: Oh.

Mr. Howard: Oh, the seconder was Holly?

Mrs. Hazard: Yes.

Mr. Howard: Mrs. Hazard, sorry.

Mrs. Hazard: I guess my only other comment is I have some of the same concerns. As I have seen things about this that this is a mini-mobile homes that rents for about \$2,000 a month. And I am not saying that is a bad thing, but I think before we go jumping there and promoting this company that \$2,000 a month is a significant outlay and I believe that we just need to look at this. I will say as a point of for you all to have for cocktail conversation, there is another one of these out there called the Inspired In-Law Cottage, just so you have that.

Ms. Hudson: Where was that from?

Mrs. Hazard: It just says that this business has been picking up over the last few years, but it does not have where they have it. But it is called the Inspired In-Law Cottage and it is done with modular source and house plans dot com.

Mr. Howard: Ms. Hudson, is there a requirement in this ordinance that you must use the pod where that manufacturer is located in Virginia?

Ms. Hudson: No.

Mr. Howard: Okay. How did this ordinance come to our attention here in Stafford County?

Ms. Hudson: Well it came to our attention because it was passed by the General Assembly and it said the local governing bodies shall...

Mr. Howard: Shall adopt?

Ms. Hudson: ... shall adopt.

Mr. Howard: Okay.

Mr. Hiron: However there was no time limit on that, correct?

Ms. Kirkman: But could it get...

Mr. Howard: Go ahead Ms. Kirkman.

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Ms. Kirkman: ... clarification from the attorney? My understanding is since the state has said this shall be a right of property owners and my concern is if we don't put anything in place, at least right now we can define things. Like we can require the annual certification, we can define setbacks, we can define what, you know it has got to be assembles off site and it can't have a foundation. And if we don't pass this then we lose any ability to do any of that but they can come in and say I have the right under the state statute to do this.

Mr. Howard: Ms. Kirkman, we have to stand at ease until the tape is changed. So I am just going to call an audible... we won't...

Ms. Kirkman: That gives Alan a chance to think.

Mr. Howard: We won't conduct any county business we do have witnesses in the audience. We will stand at ease, which means no one talks to one another about county business.

Ms. Kirkman: Why don't agree to...

Mr. Howard: And Caroline go ahead and change the tape, thanks. Sorry about that. Bathroom breaks five minutes. Okay we are back in session. We stood at ease. We are back on. And I apologize, but Ms. Kirkman will be right back. She was in the middle of discussing... Mr. Mitchell we are back on camera here. My point was, I was agreeing with Ms. Kirkman that we have an opportunity to craft it so we believe we can't get taken advantage of or we can minimize that occurring. There is no requirement to use any specific builder or pod. There are building requirements in terms of plumbing and electric and other things that...

Ms. Hudson: Right, just the size.

Mr. Howard: ... that exist. By putting the medical requirement in there and adding that to an annual certification certainly gives us some protection. I would advocate also that I hope every single State Assemblymen and Senator as well as Supervisor or Commissioner advocates and fights for their constituents. That is why you get elected. So I appreciate your comments but I am not sitting here at all as a Stafford County Planning Commissioner thinking there is anything suspicious or suspect about the legislation, about the way the General Assembly works or any of that. So I just want to get that on the record and in the spirit of the way it is written I... God rest my mom's soul but I think of her. If this had existed and occurred I probably would have taken advantage of it. But it did not happen. But I think there are other people out there that could and I think anything we can do to make sure that the right person is taking advantage of this and not taking advantage of the system, which is going to happen, there is going to be that small percentage that do it anyway. But to minimize that to Ms. Kirkman's point we have a chance to do that in writing. So those are my comments. And Ms. Kirkman I was just rambling while you're... okay good. While you are back you can take off where you left off if you want.

Ms. Kirkman: No I was waiting for Mr. Smith.

Mr. Howard: Okay.

Ms. Kirkman: My concern is that not passing anything is that State Statute give the property owner the right to (inaudible, microphone not on).

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Mr. Howard: You have got to get your mic on.

Mr. Smith: Yes, Ms. Kirkman. That is a correct interpretation. This is self-executing, it states that the zoning ordinance shall for all purposes consider temporary family health care structures for use by a caregiver in providing care for a mentally or physically impaired person and on property owner occupied by the caregiver as his residence as a permitted accessory use in any single family residential zoning district on lots zoned for single family detached dwellings. So basically that means that this would apply whether the county adopted it whether it was included in the Zoning Ordinance or not and you are also correct Ms. Kirkman that there are provision in here where the county does have permissive authority to take different types of actions or impose different requirements that those portions of the legislation are not self-executing. It is left to the digression of the locality.

Mr. Howard: Any other discussion? Mrs. Hazard.

Mrs. Hazard: I guess the only other thought I had is reading this as such structures, this is in part A, shall comply with all set back requirements that apply to the primary structure and with any maximum floor area ratios, it don't think that is going to be a problem at 300 square feet, but I guess I am trying to understand how the setback requirements... I am thinking of the neighbor to be honest. When it says the setback requirements that apply to the primary.

Mr. Howard: It would be the same as a utility shed that you are trying to put on your property.

Mrs. Hazard: Okay, I am just trying to make sure that I don't want to have the neighbor next door saying well not it is sitting on my property line. But it might be...

Ms. Hudson: It would have to utilize the same... they would be required to do the same setbacks as the primary dwelling on the property. Say 35 feet is the front setback, they would have to put this structure 35 from the front.

Mrs. Hazard: And if it doesn't fit in there it could be denied?

Ms. Hudson: Yes.

Mrs. Hazard: Okay.

Ms. Hudson: They would have to meet the same... the requirements otherwise they would not get their permit.

Mr. Hirons: Mr. Chairman, you actually kind of hit why I think this because it is kind of like a utility shed. My final... the final person I spoke with about this that made me truly say, you know, I have got to do what I can to slow this down. I agree, let's do something at some point but we are very concerned about the process and we don't have the process ironed out. We don't even understand what a doctor's note means for God sakes for this thing. You know a doctor's certification. Well there are doctor's out in California who will give anyone a doctor's note for marijuana use, so getting a doctor's note for a utility shed in your backyard isn't going to be a problem. I would really like to see the process of how this would be implemented ironed out a lot more. And that may only take a month or two, so we are not losing a lot of time here. I don't object to coming back to this but back to how I started this little rant, was the last person I talked to about this was my wife this afternoon who is a registered nurse who has been in the business of geriatric care and rehabilitation care for longer that I

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would be allowed to say publically. But she has made a career out of it and she is very, very good at it. And she has a lot of concern about this and said that is not what caregivers, true caregivers would want to jump into necessarily. And she was concerned about the unintended consequences as well. So I will leave it at that, you know I take a lot of value of what my wife has to say about anything that deals with nursing care and rehabilitation.

Mr. Howard: Okay, any other comments? Mr. Mitchell, do you have a comment?

Mr. Mitchell: One quick comment. Even though I understand Scott's concept I can't support the concept because the words he used was an indefinite suspension or indefinite delay. And I think we need to do something, I think if we could rephrase it to revisit it 30 days I could support it. But I cannot support an indefinite delay.

Mr. Hirons: I would accept a time period. My concern is we keep hearing things, I think I probably came up with a few more questions I would like to know before we actually go to public hearing at some point. I would prefer 60 or 90 days in particular because we are coming up on summer and we are missing a couple of meetings. So I would ask for a time extension to September 30<sup>th</sup>.

Mr. Howard: Does... you are amending your own... you are changing your own wording to add September 30<sup>th</sup>? Mrs. Hazard do you agree with that?

Mr. Hirons: If Mrs. Hazard agrees with that.

Mrs. Hazard: I would support it.

Mr. Howard: Alright, my comments. So in other... I will go over his motion in a second we are still in discussion. And just for the record I have been in healthcare for 25-plus years and there is a significant number of people who want independence and they need to be looked after so you cannot minimize somebody, and there are opinions on both sides and both are correct because it depends on the individual, but they look for that independence where they can have their private space and be away and not have to deal with what is going on inside the house, but at the same time being looked after. So I appreciate your comments, I have got concerns about them. I cannot support not trying to move this forward. It's been passed by the Virginia Assembly, we are under the shall requirement and I am not sure why I still have not heard anything that leads me to believe that we would not want to adopt this in Stafford County and have some regulations in our county that govern the say of who can do this and how long and why. So I can't support the motion, I support moving this to public hearing but that is not your motion. So the way I understood your motion is, I will repeat it is you are making a motion to send this to public hearing with also a request to the Board of Supervisors to allow us to defer this public hearing until September 30<sup>th</sup> basically. Is that correct?

Mr. Hirons: Correct.

Mr. Howard: Okay.

Ms. Kirkman: Mr. Chair?

Mr. Howard: Yes, Ms. Kirkman?

Ms. Kirkman: I am going to make a substitute motion.

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Mr. Howard: Okay.

Ms. Kirkman: My substitute motion is to send this to public hearing for, what was the time limit on this? I can't find it right now.

Mr. Rhodes: July 4<sup>th</sup> is the time limit. Public hearing was scheduled for June 15<sup>th</sup>.

Ms. Kirkman: For public hearing on June 15<sup>th</sup> with the two changes that were discussed. One is the addition of the RBC use under Section 28-35 and the second change is the insertion of in the definition of mentally or physically impaired as inserted after certified initially and on an annual basis.

Mr. Howard: Is there a second?

Mr. Fields: Second.

Mr. Howard: Second by Mr. Fields. Discussion?

Ms. Kirkman: Mr. Chair, I made the motion, I actually have a number of concerns about this but overriding all of that is unfortunately because the state legislature did pass this and it will be a year before it can be fixed, I think we need something in place in the meantime. So really it's really from my perspective a harm reduction response to something that has been imposed on us by the state rather than support of how it has been executed.

Mr. Howard: Okay, Mr. Fields you have the second comment.

Mr. Fields: Let me see if I can perhaps propose a friendly amendment that might split the difference at some of the concerns because I share actually everybody's concerns. There are a lot of good points, there is not a good answer here. They are all valid points in my mind. Maybe this doesn't... and maybe this wouldn't completely satisfy Mr. Hirons intent but I certainly share his concern about the way this was originated. I think Ms. Kirkman's point technically is probably correct that given the self-actuating nature of the statute we could have somebody put one of these in while we are waiting. But I would like to say... ask Ms. Kirkman if she would accept an amendment to as we go to public hearing, no matter what recommendation we make after the public hearing that we also recommend that the Board aggressively and perhaps with the participation of the Planning Commission proceed to engage our legislators in potential modifications that would address our concerns.

Ms. Kirkman: Amendment accepted. I think that makes perfect sense.

Mr. Fields: Okay, because I agree that... I agree with your assessment but I agree with Mr. Hirons that this is... we need our legislators to rework this for our better interests. Thank you.

Mr. Hirons: And I agree with that too Pete. Thank you for kind of getting to the true crux I think of what I am going at. I would still have concerns about adopting this, but we are where we are I suppose.

Mr. Fields: Maybe cover ourselves but get right with the folks and see if we can't get this to where it would...

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Mr. Hiron: And I did want to make a point Ms. Kirkman, you know she did mention that it would be a year before this could be fixed. This legislation was actually passed in 2010 so it has been on the books for a year and we have not done anything with it so far and we have not had anyone knocking down our doors to put in a granny pod.

Ms. Kirkman: Now we have been talking about it on TV.

Mr. Hiron: Yes, great advertising.

Mr. Rhodes: Now there is four people out there that might be considering this.

Mr. Howard: I am getting one next week.

Mr. Hiron: So I will support the substitute motions thanks to Mr. Fields.

Mrs. Hazard: I do too.

Mr. Howard: Alright so again my recollection of Robert's Rules of Order Mr. Smith are the way that that amendment took place was changing language, inserting language and changing words and adding a paragraph to the main motion so the way we voted previously that is not how we handled that. So I will now defer to you the Robert's Rules expert and say are we voting on the amendment first as we did before, because that is not the way we have done it in the past.

Ms. Kirkman: Could I, this is like getting clarification. I thought there was a difference between an amendment to the primary motion and a substitution to the primary motions. And what I offered this time was not an amendment to the primary motion.

Mr. Howard: No you made a substitute.

Ms. Kirkman: Right.

Mr. Howard: Mr. Fields amended your substitute.

Ms. Kirkman: Amended... oh I see what you are asking. So now we need... no he offered it as a friendly amendment and I accepted it, which is different than what I did earlier.

Mr. Howard: Well we will ask Mr. Smith. Because it is the same process we went through before.

Mr. Smith: Mr. Chairman, Ms. Kirkman on the friendly amendment aspect I know under Robert's technically Robert's says that it doesn't distinguish an amendment from a friendly amendment so that friendly amendments are, under Robert's, supposed to be voted on to be accepted as any other amendment would be voted on. So under Robert's I believe that the Commission would vote to accept Mr. Fields friendly amendment and then the Commission would move on to the substance of your substitute motion.

Mr. Howard: Alright so we are going to vote on Mr. Fields amendment. All those in favor signify by saying aye.

Mr. Fields: Aye.



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Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Ms. Kirkman: Aye.

Mr. Hiron: Aye.

Mr. Howard: Aye. Opposed nay?

Mr. Mitchell: Nay.

Mr. Howard: Motion carries 6 to 1. Now we are back to the substitute motion of Ms. Kirkman which adds the two elements and also send this to public hearing for June 15<sup>th</sup>. All those in favor signify by saying aye.

Mr. Fields: Aye.

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Ms. Kirkman: Aye.

Mr. Hiron: Aye.

Mr. Howard: Aye. Opposed nay?

Mr. Mitchell: Nay.

Mr. Howard: Motion carries 6 to 1. We are now back to item 2. Thank you Ms. Hudson.

2. RC1000338; Reclassification - Quantico Corporate Center - Continued

Mr. Fields: How does that keep happening?

Mr. Howard: Deja vu.

Ms. Kirkman: Like Groundhog Day.

Mr. Fields: Yes, like Groundhog Day.

Mr. Rhodes: There is no one who wants to say that more than the applicant.

Mr. Zuraf: The twilight zone.

Mr. Howard: Mr. Zuraf, thank you.

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Mr. Zuraf: Yes, the changes that we have and we went through and hand wrote the changes in and the applicant has initialed next to the changes. The first change is to proffer 13. Proffer 13 already had existing language regarding the cemetery so language will be added on to the end of proffer 13 to state the applicant will construct a fence around the cemetery, a parking lot for visitors and the cemetery will remain undisturbed.

Mr. Howard: Okay.

Mr. Zuraf: That is number 13. And proffer 17 on page 4 on the fourth line we will strike out within six months of and instead it will say in reading from the... well subject to VDOT and County approval of final engineering plans the owner shall extend Corporate Drive from its current terminus within the Quantico Corporate Center through the property to Telegraph Road prior to the issuance of a final occupancy permit for any building within the property. And that's second and then the last change to proffers 19 A and B, just strike through the County or other entities in each one of those so then it would just say subject to acquisition of the right-of-way, subject to construction of the realignment and that is the change and the applicant has initialed to agree to that.

Mr. Howard: Thank you very much; I appreciate your time and patience.

Mr. Moncure: Thank you to the Board, I appreciate it.

Mr. Howard: Okay Ms. Kirkman, this is in your magisterial district still I believe.

Mr. Harvey: Mr. Chairman, just to remind the Commission with the by-laws, since this is written material that was not presented to you in advance of the meeting the Commission would need to...

Mr. Howard: Suspend the rules. We have to suspend the rules. We can suspend our own rules.

Ms. Kirkman: Don't... just to... I have a question Mr. Attorney. I thought, and this actually came about as a lawsuit as I remember about changes to proffers before your time, Mr. Smith. I thought we amended our conditional zoning ordinance to specifically state that changes could be made to the proffers so long as they were within a certain range. And at which point the statute would override Robert's Rules.

Mr. Smith: Yes Ms. Kirkman, I am not sure exactly which provision you are referring to. I know there is language in the State Code that discusses the Boards acceptance of amendments to written proffers once the public hearing has begun. I am not familiar with a provision of our zoning ordinance that says something similar or the same at the Planning Commission stage.

Ms. Kirkman: Mr. Harvey you know I am referring to the change that was made after the Wal-Mart lawsuit.

Mr. Harvey: Yes Mr. Chairman and Ms. Kirkman, I believe the County changed our Code because of that issue. Our local ordinance was more restrictive than the State Code and that restricted the Board from making any changes... accepting any changes to proffers after the public hearing was closed. From my understanding the State Code says that they can amend proffers as long as they are not substantive in nature.

Mr. Howard: Right.

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Mr. Harvey: So we later went ahead and changed that. But what I was referring to was the by-laws.

Mr. Howard: Right, so Section 4-6 in our by-laws allows suspending the rules for one or more by-laws may be suspended with the concurrence of two-thirds of the members of the full Commission.

Mr. Mitchell: Mr. Chairman, I make a motion to suspend our by-laws.

Mr. Howard: Is there a second?

Mr. Rhodes: Second.

Mr. Howard: Any discussion?

Mr. Smith: Mr. Chairman I would point out, I think the Commission could by the same vote under 4-2(i) choose to accept a piece of written material that was provided to the Commission for the first time. The vote would be the same numerically, but I think that that provision would apply here as well if the Commission chooses to...

Mr. Howard: Mr. Mitchell do you wish to withdraw your motion?

Mr. Mitchell: Yes.

Mr. Howard: Do you agree with that Mr. Rhodes?

Mr. Rhodes: You got it.

Mr. Howard: Okay. So for the record 4-3(i) is no written material presented to the Commission for the first time at any given meeting shall be voted upon at such meeting unless two-thirds of the members present at such meeting shall consent to such a vote, otherwise the material or matter shall be carried over to the next meeting of the Commission. So we would first have to have a motion to accept the written material and then two-thirds of the members present have to vote in favor of that.

Mr. Rhodes: So moved.

Mr. Howard: Is there a second?

Mr. Mitchell: Second.

Mr. Howard: Any discussion? All those in favor of the motion which would be accepting the written material presented to us this evening on the reclassification of Quantico Corporate Center RC1000338, signify by saying aye.

Mr. Fields: Aye.

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

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Ms. Kirkman: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay? The motion carries 7-0. Ms. Kirkman you have the floor.

Ms. Kirkman: Okay. My motion is to... it is going to be a two sentence motion. The first sentence is to recommend approval of RC1000338, reclassification Quantico Corporate Center with the revision to the proffers that were voluntarily offered tonight. The second sentence is this recommendation to the Board is conditional upon the Board obtaining a proffer from... proffer revisions from the applicant regarding the construction of a second northbound left turn lane along U. S. Route 1 in the context of the widening of Route 2 and any additional traffic improvements that a new TIA may... modeling may indicate based on the exclusion of a third access point. And that is really to... Mr. Fields you seconded?

Mr. Fields: Yes.

Ms. Kirkman: Mr. Chair I offered that second sentence because what the applicant had stated is that they could not make those more substantial... commitments to those more substantial traffic improvements tonight but I really think they are essential to the smooth functioning of traffic in that area. So this makes it clear what the intent is and certainly summarizes the discussion I have had with the other applicant representative.

Mr. Mitchell: Mr. Chairman, I will make a substitute motion for approval of RC1000338 with the proffers that Mr. Moncure submitted tonight.

Mr. Rhodes: Second.

Mr. Howard: Discussion?

Ms. Kirkman: Well, Mr. Chair I am going to have to oppose...

Mr. Rhodes: Does the substitute motioner have the floor?

Ms. Kirkman: Oh, well he did not say anything.

Mr. Howard: Yes, Mr. Mitchell.

Mr. Mitchell: My issue is Mr. Moncure has been very straight forward with us. He has presented his side, we have the option of voting for it or against it. I am going to support it. I think the job base in Stafford County needs this. Now two meetings ago, two meetings ago I sat here and I made a very blatant statement that this Board was delaying this thing and one or two members flared back in my face. Well this is two meetings later and we are still at this point so I think we need to pass it.

Mr. Rhodes: Mr. Chairman and I seconded the substitute motion, given the point that it's a... we are basing so many things on an individual conversation that was happening outside the scope of these proceedings here. Many times people will perceive things in different ways and misrepresent them... not exactly represent them correctly we were trying to do some strong-arming tactics here based on an

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outside conversation that took place which I think was inappropriate and therefore I think that second sentence was inappropriate and therefore I believe in the substitute motion. Thank you Mr. Chairman.

Mr. Howard: Alright, any other discussion Ms. Kirkman?

Ms. Kirkman: Yes Mr. Chairman, first off I would like to remind the Commission that the applicant themselves requested a deferral on action on this. Secondly there was nothing inappropriate in fact the plan was to meet with the applicant and that was not an outside inappropriate meeting. That was conducted with staff and the Director of Planning present.

Inaudible statement

Ms. Kirkman: Mr. Chair I have the floor. Additionally we have a responsibility to the tax payers of the County to insure that developers pay their fair way. And the applicant own traffic impact analysis has indicated that additional road improvements are needed. The applicant has not proffered to address those needs. And I really was looking to find a way to support this application because I do support the concept and I recognize the importance of the type of economic development that we need adjacent to Quantico. However I cannot support... I think it is irresponsible to move this forward without some kind of notation to the Board that these additional traffic improvements do need to be addressed.

Mr. Howard: Thank you. Any other discussion?

Mr. Fields: Yes, I will support... well, oppose Mr. Mitchell's motion and support Ms. Kirkman's position. You know sometimes it is difficult, sometimes it is tedious, sometimes it is exhausting but it is... I always point out, I hope I don't do it too often but this is the one point that we have the point to say get things right. You don't have... you can't just keep coming back and trying to revise these things. You have the point of rezoning generally where proffers are available and if you miss your shot at the proffers then you miss. I think everybody here wants to do the right thing. This is simply just a process... a process towards it. And sometimes... sometimes you disagree but I always... things are a little bit different sometimes and I hate to... geez I have only been here twelve years I am not trying to talk about old times. There was a... I am always a little discouraged if there is a specific recommendation that is in the best interest of moving things forward, but is still working on just tweaking the final details made by the Planning Commissioner or Supervisor... if it is the Board of Supervisor who represents the district in question, I always... I always give that individual a piece of deference because they understand the very specific of that land and that area better than I do. If I... sometimes I don't agree with them and that is all the way it is, but I always give some weight to that consideration.

Mr. Howard: Let me have my comments. Mr. Fields you have said that in the past, and I am not picking on anybody, but I would tell you if you looked at the record that is not always the case. And I think you sort of said that as well. In any case the applicant has a proffer that is five pages long and they have proffered several things and proffers are voluntary. And I think we have gotten from this applicant all we can get to Mr. Fields point, the bite of the apple, and it has been a longer process than we have seen in the past. But it is as long as some others. It is a big project. It is a very important project to the County and the applicant and the owners, the different owners involved in this have proven over the years that they are very good. They have offered also to continue to work with the Board of Supervisors as this thing continues to move through the process. I don't see a need to try and kind of hold them up tonight and put a proffer or make an amendment of a proffer that they have not agreed to volunteer to do and force it down their throat I think is not in the best interest of Stafford

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County. I think the way we have worked in the past with applicants and tried to meet with them and come to an agreement is probably a more appropriate way to continue these voluntary proffers as the County continues to evolve and move forward. So I will support Mr. Mitchell's motion. All those in favor signify by saying aye.

Mrs. Hazard: Aye.

Mr. Rhodes: Aye.

Mr. Mitchell: Aye.

Mr. Hirons: Aye.

Mr. Howard: Aye. Opposed nay?

Mr. Fields: Nay.

Ms. Kirkman: Nay.

Mr. Howard: The motion carries 5 to 2. Thank you. That brings us to the Planning Director's report.

**PLANNING DIRECTOR'S REPORT**

Mr. Harvey: Mr. Chairman and Commission members, actions from the Board yesterday included approval of the CUP application for the U-Haul franchise at Pets Plus on Route 1. Also the telecom tower CUP on Route 17 at Payne's Corner and we previously discussed the Redevelopment Plan. And that concludes my report.

Mr. Howard: Thank you. County Attorney's report?

**COUNTY ATTORNEY'S REPORT**

Mr. Smith: No report Mr. Chairman.

Mr. Howard: Thank you. The TDR, I don't have an update on that. I don't think there was a meeting since our last meeting.

Mr. Hirons: There was a meeting that was cancelled.

Mr. Howard: Okay.

Mr. Hirons: And no discussion of rescheduling.

Mr. Howard: Right. And Telecommunication?

Mr. Hirons: We have our meeting tomorrow.

Mr. Howard: Great. Okay excellent. Alright the meeting is adjourned. Thank you very much, have a good evening.

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COMMITTEE REPORTS

8. Transfer of Development Rights (TDRs) (**In Joint Committee**)
9. Telecommunications Plan Update (**Time Limits: May 31, 2011 - Joint Committee completes work and forwards to Planning Commission; August 1, 2011 - Planning Commission conducts public hearing and makes a recommendation**)

CHAIRMAN'S REPORT

OTHER BUSINESS

APPROVAL OF MINUTES

None

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 11:31 p.m.